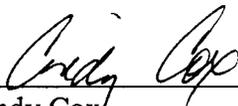


STATE OF GEORGIA

COUNTY OF FULTON

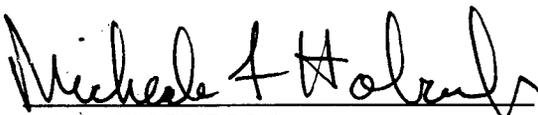
BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Cindy Cox, Senior Director, BellSouth Telecommunications, Inc., being by me first duly sworn deposed and said that:

She is appearing as a witness before the Kentucky Public Service Commission in "Investigation Concerning the Propriety of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996," KY PSC Case No. 2001-105, and if present before the Commission and duly sworn, her direct testimony would be set forth in the annexed transcript consisting of 96 pages and 5 exhibit(s).



Cindy Cox

SWORN TO AND SUBSCRIBED BEFORE ME this
15th day of May, 2001.



NOTARY PUBLIC

MICHEALE F. HOLCOMB
Notary Public, Douglas County, Georgia
My Commission Expires November 3, 2001

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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF CYNTHIA K. COX
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION
CASE NO. 2001-105
May 18, 2001

PART I: INTRODUCTION

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. (“BELLSOUTH”) AND YOUR BUSINESS ADDRESS.

A. My name is Cynthia K. Cox. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from the University of Cincinnati in 1981, with a Bachelor of Business Administration degree in Finance. I obtained a Master of Science degree in Quantitative Economics from the Georgia Institute of Technology in 1984. I then joined Southern Bell in the Rates and Tariffs organization with the responsibility for demand analysis. In 1985, my responsibilities expanded to include administration of selected rates and tariffs, including preparation of

1 tariff filings. In 1989, I accepted an assignment in the North Carolina
2 regulatory office where I was BellSouth's primary liaison with the North
3 Carolina Utilities Commission Staff and the Public Staff. In 1993, I moved to
4 BellSouth's Governmental Affairs department in Washington D.C. While in
5 this office, I worked with national organizations of state and local legislators,
6 National Association of Regulatory Utility Commissions ("NARUC"), the
7 Federal Communications Commission ("FCC") and selected House delegations
8 from the BellSouth region. In February 2000, I was appointed Senior Director
9 of State Regulatory.

10

11 **PART II: EXECUTIVE SUMMARY**

12

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

14

15 A. The purpose of my testimony in this proceeding is to demonstrate that
16 BellSouth has met the requirements of the Telecommunications Act of 1996
17 ("Act") for entry into the interLATA services market. Specifically, I address
18 each of the 14-point competitive checklist items found in Section 271(c)(2)(B)
19 of the Act, excluding third-party Operational Support System ("OSS") testing
20 and performance data. For each checklist item I provide:

21

1) an explanation of the checklist item;

22

2) a discussion of this Commission's and the FCC's findings on
previous BellSouth 271 applications;

23

24

3) illustrative references to agreements under which the offering is
available;

25

1 4) a demonstration of BellSouth’s compliance with the checklist items.

2

3 Q. WHAT ARE THE REQUIREMENTS OF THE ACT IN ORDER FOR A
4 BELL OPERATING COMPANY (“BOC”) TO OBTAIN IN-REGION
5 INTERLATA AUTHORIZATION?

6

7 A. Section 271 of the Act provides a clear path that a BOC must follow in order to
8 obtain authorization to provide in-region interLATA authority. The BOC must
9 demonstrate to the FCC that it has met the following:

- 10 1) The requirements of either Section 271(c)(1)(A) (also known as
11 Track A) or 271(c)(1)(B) (also known as Track B);
- 12 2) A BOC has fully implemented the competitive checklist, or that the
13 Statement of Generally Available Terms and Conditions (“SGAT”)
14 approved by the state in Section 252 satisfies the competitive
15 checklist, contained in Section 271(c)(2)(B);
- 16 3) the requested authorization will be carried out in accordance with
17 the 272 requirements; and
- 18 4) the requested authorization is consistent with the public interest,
19 convenience, and necessity.

20

21 Q. WHAT ARE THE STANDARDS OF THE FCC IN ASSESSING A BOC’S
22 COMPLIANCE WITH THE REQUIREMENTS OF SECTION 271?

23

24

25

1 A. In its Bell Atlantic New York Order¹, the FCC stated that “[t]o make a *prima*
2 *facie* case that the BOC is meeting the requirements of a particular checklist
3 item under section 271(c)(1)(A), the BOC must demonstrate that it is providing
4 access or interconnection pursuant to the terms of that checklist item.” (§ 52).
5 The FCC further stated that, “a BOC must demonstrate that it has a concrete
6 and specific legal obligation to furnish the item upon request pursuant to state-
7 approved interconnection agreements that set forth prices and other terms and
8 conditions for each checklist item, and that it is currently furnishing, or is ready
9 to furnish, the checklist item in quantities that competitors may reasonably
10 demand and at an acceptable level of quality.” (*Id.*).

11

12 Q. WHAT IS THE FCC’S POSITION RELATIVE TO A BOC’S
13 DEMONSTRATION THAT IT SATISFIES THE REQUIREMENTS OF
14 TRACK A?

15

16 A. In its Bell Atlantic New York Order, the FCC concluded that to qualify for
17 Track A, “a BOC must have interconnection agreements with one or more
18 competing providers of ‘telephone exchange service...to residential and
19 business subscribers.’” (§ 61). The FCC went on to cite the Act, which states
20 that, “such telephone service may be offered...either exclusively over [the
21 competitor’s] own telephone exchange service facilities or predominantly over
22 [the competitor’s] own telephone exchange facilities in combination with the

23

24 ¹ *Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act*
25 *to Provide In-Region InterLATA Service in the State of New York*, CC Docket No. 99-295,
Memorandum Opinion and Order (Released December 22, 1999) (“Bell Atlantic New York Order”).

1 resale of the telecommunications services of another carrier.” (*Id.*). Finally, the
2 FCC reiterates its conclusion in the Ameritech Michigan Order² that, “when a
3 BOC relies upon more than one competing provider to satisfy section
4 271(c)(1)(A), each carrier need not provide service to both residential and
5 business customers.” (*Id.*)

6

7 Q. HOW DOES BELL SOUTH MEET ITS LEGAL OBLIGATION FOR
8 COMPLIANCE WITH THE FOURTEEN-POINT CHECKLIST ITEMS?

9

10 A. According to the Section 271(c)(1)(A) of the Act, “[a] Bell operating company
11 meets the requirements of this subparagraph if it has entered into one or more
12 binding agreements that have been approved under Section 252 specifying the
13 terms and conditions under which the Bell operating company is providing
14 access and interconnection to its network facilities for the network facilities of
15 one or more unaffiliated competing providers of telephone exchange service
16 (as defined in Section 3(47)(A), but excluding exchange access) to residential
17 and business subscribers.”

18

19 BellSouth has successfully negotiated or has arbitrated, and the Kentucky
20 Public Service Commission (“Commission”) has approved, over 500
21 interconnection and resale agreements with Competitive Local Exchange
22 Carriers (“CLECs”) in Kentucky. Additionally, BellSouth has developed a
23 legally binding SGAT included in this filing, for the Commission’s approval.

24

25 ² *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan*, CC Docket No. 97-137, 12 FCC Rcd at 20589, (1997) (Ameritech Michigan Order).

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Additionally, BellSouth will provide the KPSC with performance data in a supplemental Data Filing that will enable the Commission to conclude that BellSouth’s performance complies with the requirements of the Act, the FCC, and the KPSC’s rules and requirements.

Q. PLEASE SUMMARIZE BELLSOUTH’S COMPLIANCE WITH THE REQUIREMENTS OF THE FOURTEEN-POINT CHECKLIST.

A. BellSouth will demonstrate throughout my testimony, and the testimony of other BellSouth witnesses, that it is providing or generally offering access or interconnection to other telecommunications carriers in accordance with the requirements of Section 271(c)(2)(B). BellSouth’s compliance with each of these 14-points provides the CLECs with the necessary functions of interconnection, access to unbundled network elements (“UNEs”), and the resale of telecommunications services in a nondiscriminatory manner which allows CLECs to fully compete with BellSouth.

Q. PLEASE IDENTIFY THE OTHER BELLSOUTH WITNESSES FILING DIRECT TESTIMONY AND THE TOPICS THAT EACH WILL ADDRESS.

A. In addition to my testimony, BellSouth will present the direct testimony of the following witnesses regarding the areas listed below:

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Witness	Area
Ken Ainsworth	Manual OSS
Al Heartley	Network Regionality
Jerry Latham	Loops
Keith Milner	Network
Ed Mulrow	Statistical
Ron Pate	OSS
David Scollard	Billing
Alphonso Varner ³	Performance
Thomas Williams	Line-Sharing

For certain checklist items BellSouth is attaching affidavits to the testimony of specific BellSouth witnesses.

Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?

A. The remainder of my testimony is arranged into the following sections: Part III provides a history and background of the 271 rulings and decisions; Part IV demonstrates BellSouth’s compliance with the Track A requirement; Part V demonstrates BellSouth’s compliance with each of the 14-point checklist items; and, Part VI summarizes and concludes my testimony. In addition, there

³ Mr. Varner submits BellSouth’s proposed set of service quality measurements and a voluntary performance penalty plan that BellSouth will ask this Commission to adopt. Mr. Varner will subsequently provide BellSouth’s supplemental Data Filing to show BellSouth’s nondiscriminatory performance and compliance with the requirements of the Act, and the Rules of the FCC and this Commission.

1 are five exhibits attached to my testimony.

2

3 Q. PLEASE DESCRIBE THE EXHIBITS ATTACHED TO YOUR
4 TESTIMONY.

5

6 A. Attached to this testimony is a series of exhibits that are referenced at various
7 points within my testimony. These exhibits are as follows:

8

9 CKC-1 Glossary – A list of the acronyms, and their definitions, that are
10 contained within my testimony.

11 CKC-2 KPSC Proceedings – Description of the key proceedings undertaken
12 by the KPSC on resale and unbundling, performance measurements,
13 operations support systems, collocation, cost, and several extensive
14 agreement arbitrations.

15 CKC-3 Checklist Compliance Matrix – This chart provides a representative
16 sample of agreements that BellSouth has entered into with CLECs
17 and identifies where the agreement evidences BellSouth’s
18 obligation to provide each of the 14-point checklist items. This
19 matrix also includes for each checklist item citations to BellSouth’s
20 SGAT.

21 CKC-4 Competition Affidavit – The affidavit of Mr. Victor Wakeling
22 describes the current status of local exchange service competition
23 within BellSouth’s wireline local service area in Kentucky, with
24 particular emphasis on facilities-based providers.

25 CKC-5 BellSouth’s SGAT - The SGAT enables CLECs to interconnect

1 with BellSouth, purchase unbundled network elements, and/or resell
2 BellSouth services without negotiating an individual agreement
3 with BellSouth.

4
5 Q. WHAT IS BELLSOUTH REQUESTING OF THE KPSC IN THIS
6 PROCEEDING?

7
8 A. At the conclusion of this proceeding BellSouth will ask the KPSC to do three
9 things:

- 10 1) rule that BellSouth has met the requirements of Track A;
- 11 2) determine that BellSouth has met the requirements of the 14-point
12 checklist through agreements it has with CLECs operating in
13 Kentucky; and
- 14 3) find that BellSouth's SGAT meets the requirements of the Act.

15

16 **PART III: 271 HISTORY AND BACKGROUND**

17

18 Q. HAS THE KPSC PREVIOUSLY EVALUATED BELLSOUTH'S
19 CHECKLIST COMPLIANCE? IF YES, PLEASE EXPLAIN.

20

21 A. Quoting from the KPSC's Advisory opinion⁴ issued in Case No. 96-608 on
22 July 8, 1999:

23

24

25 ⁴ *Advisory Opinion In the Matter of: Investigation Concerning the Propriety of Provision of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996, Case No. 96-608, Released July 8, 1999. ("1999 Order").*

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On December 20, 1996, on its own motion, the Commission instituted this proceeding in order to compile a record that would enable the Commission to advise the Federal Communications Commission (“FCC”) as to whether BellSouth Telecommunications, Inc. (“BellSouth”) should be permitted to enter the in-region interLATA market in Kentucky pursuant to Section 271 of the Telecommunications Act of 1996. Pub.L.No. 104-104, 110 Stat. 56, 47 U.S.C. § 151 et seq. (“the Act”). (p. 1).

The KPSC further stated that:

This document based on the record compiled to date, is issued in order to apprise BellSouth and other interested parties of those items on the Competitive Checklist which, in this Commission’s opinion, BellSouth has met. Absent material changes in circumstances, the parties hereto need not submit additional evidence or argument in regard to these items. (p. 2).

In its 1999 Order, the KPSC found that BellSouth satisfied checklist items:

- (3) Access to Poles, Ducts, Conduits and Rights of Way;
- (8) White Pages Directory Listings for competing LECs’ customers;
- (9) Numbering Administration (telephone numbers for assignment to other carrier’ customers);
- (10) Databases and Associated Signaling necessary for call routing and completion;
- (11) Number Portability;
- (12) Services or information necessary to allow a requesting carrier

1 to implement Local Dialing Parity; and
2 (13) Reciprocal Compensation arrangements.
3 (pp. 5-10)
4

5 Q. WHAT HAS BELLSOUTH LEARNED AS A RESULT OF ITS MOST
6 RECENT 271 FILING WITH THE FCC ?
7

8 A. On October 13, 1998, the FCC released its Memorandum Opinion and Order in
9 CC Docket 98-121 denying BellSouth's application to provide interLATA
10 services originating in Louisiana.⁵
11

12 In its LAII Order (at ¶ 8), the FCC found that BellSouth satisfied checklist
13 items:

- 14 (3) Access to Poles, Ducts, Conduits and Rights of Way;
15 (7) 911 and E911 Services (see below regarding Operator Services
16 ("OS") and Directory Assistance ("DA"));
17 (8) White Pages Directory Listings for competing LECs'
18 customers;
19 (9) Numbering Administration (telephone numbers for assignment
20 to other carrier' customers);
21 (10) Databases and Associated Signaling necessary for call routing
22 and completion;
23 (12) Services or information necessary to allow a requesting carrier

24 _____
25 ⁵ *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long
Distance, Inc., for Provision of In-Region, Inter-LATA Services in Louisiana*, CC Docket No. 98-121
Memorandum Opinion and Order (Released October 13, 1998) ("LAII Order").

1 to implement Local Dialing Parity; and
2 (13) Reciprocal Compensation arrangements.

3

4 In those areas where the FCC determined that BellSouth's application failed to
5 demonstrate compliance (checklist items 1, 2, 4, 5, 6, the OS/DA portion of
6 item of 7, 11 and 14), the FCC provided guidance as to what BellSouth must
7 do to comply with the statute.

8

9 In addition, the FCC concluded, "the next time BellSouth files for Section 271
10 approval in Louisiana, BellSouth may incorporate by reference its prior
11 showing for these checklist items. BellSouth must, however, certify in the
12 application that its actions and performance at the time are consistent with the
13 showing upon which we base our determination that the statutory requirements
14 for these checklist items have been met." (LAI Order, at ¶ 8). The FCC
15 further ruled that, in future proceedings, any arguments from commenters that
16 BellSouth fails to satisfy a checklist item must relate to new information.

17

18 Q. WHAT ARE THE KEY KPSC PROCEEDINGS AND/OR DOCKETS
19 RELATED TO THE IMPLEMENTATION OF THE ACT IN KENTUCKY?

20

21 A. A detailed listing and description of the key proceedings undertaken by the
22 KPSC is attached to my testimony as Exhibit CKC-2. The KPSC's decisions
23 in these proceedings pertain to interconnection arbitrations, BellSouth's
24 Section 271 proceeding, and the generic proceeding for establishing permanent
25 prices for UNEs, interconnection and collocation.

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Q. WHAT CURRENT KPSC PROCEEDING WILL IMPACT THE APPROVAL OF THIS 271 PETITION?

A. The following open proceeding in Kentucky will impact the 271 application BellSouth plans to file with the FCC:

Administrative Case 382 (*Establishment of UNE Costs and Rates*) –

On November 2, 1999, the FCC released its order in CC Docket No. 96-45 finalizing and ordering implementation of intrastate high-cost universal service support for non-rural LECs. The FCC had stayed its UNE deaveraging requirement until six months after its high-cost order. Consequently the Kentucky Commission was required to deaverage UNE rates by May 1, 2000 and on December 10, 1999 opened this case in order to meet its required deadline. The parties to the case entered into a stipulated agreement with regard to UNE deaveraging which was approved by the Commission and implemented on May 1, 2000. On April 25, 2000 the Commission expanded the scope of this proceeding to consider UNE prices in general. UNE prices were under discussion with several CLECs, some of whom had filed for arbitration of pricing issues. These UNE pricing related issues have been deferred from arbitration cases to the current considerations in this docket.

Q. UPON COMPLETION OF ADMINISTRATIVE CASE 382 WILL THE

1 KPSC HAVE ESTABLISHED COST-BASED RATES FOR ALL UNE AND
2 INTERCONNECTION COMPONENTS REQUIRED BY THE 14-POINT
3 CHECKLIST?

4
5 A. Yes.

6

7 **PART IV: COMPLIANCE WITH TRACK A**

8

9 Q. WHAT IS YOUR UNDERSTANDING OF THE GOAL OF THE ACT AND
10 SECTION 271 IN PARTICULAR?

11

12 A. The goal of the Act with respect to telecommunications is to promote the
13 development of competition across all telecommunications markets. Pursuant
14 to Sections 251 and 252 of the Act, BellSouth has opened the local exchange
15 market to competition on both a facilities and resale basis through
16 interconnection agreements with competitors. Section 271 of the Act
17 establishes the criteria that the BOCs must meet in order to enter the in-region
18 interLATA services market as defined in the Act. Section 271 also outlines the
19 roles that the FCC, the State commissions and the Department of Justice
20 (“DOJ”) play in the process.

21

22 Q. WHAT IS YOUR UNDERSTANDING OF THE REQUIREMENTS OF
23 TRACK A?

24

25 A. The following excerpt from Section 271(c)(1)(A) of the Act states the Track A

1 requirements:

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16 Q. DOES BELLSOUTH PLAN TO FILE ITS APPLICATION FOR IN-REGION
17 INTERLATA RELIEF WITH THE FCC UNDER TRACK A (BASED ON
18 THE PRESENCE OF A QUALIFYING CARRIER)?

19

20 A. Yes. BellSouth will file its Kentucky 271 Application with the FCC under the
21 Track A provision of the Act. BellSouth has successfully negotiated or has
22 arbitrated, and the KPSC has approved, over 500 agreements with CLECs in
23 Kentucky.

24

25 Attached to my testimony, as Exhibit CKC-3, is a chart showing a

1 representative sample of agreements that BellSouth has entered into with
2 CLECs operating in Kentucky. This exhibit provides the CLEC name and the
3 location within the agreement where BellSouth demonstrates its legal
4 obligation to provide access and interconnection that meets the requirements of
5 the Act.

6
7 Exhibit CKC-4, the affidavit of Mr. Victor Wakeling, provides more detail on
8 the state of competition in Kentucky.

9
10 Q. WHAT IS THE STATUS OF LOCAL COMPETITION IN KENTUCKY?

11
12 A. The evidence is clear that BellSouth has opened the Kentucky local exchange
13 market to competition. As of March 31, 2001, a total of 70 operational CLECs
14 are providing local service to more than 95,000 lines In Kentucky.

15
16 In Kentucky, BellSouth is experiencing facilities-based competition levels
17 equal to or greater than the levels reported by the other BOCs that have
18 obtained Section 271 approval. The table below provides a comparison of
19 BellSouth's competitive market in Kentucky to the markets in Kansas,
20 Oklahoma, and Texas.⁶ The competitive data for Kansas, Oklahoma, and
21 Texas was filed as a part of the joint affidavit of Gary J. Smith and Mark
22 Johnson (now public record) in SBC's joint Kansas/Oklahoma 271

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25 ⁶ The range of percentages in the table is based on two comparable methodologies used by the BOCs to calculate market share.

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application.⁷

COMPETITIVE LINE SHARE (CLEC)			
Kansas (Aug 2000)	Oklahoma (Aug 2000)	Texas (Jan 2000)	Kentucky (Mar 2001)
9.0% - 9.5%	5.5% - 6.3%	8.1% - 8.4%	5.4% - 7.3%

Q. IS IT REASONABLE FOR THE KPSC TO CONCLUDE THAT COMPETITION IN BELLSOUTH'S LOCAL MARKETS WILL INCREASE UPON BELLSOUTH'S ENTRY INTO THE INTERLATA LONG DISTANCE MARKET IN KENTUCKY?

A. Yes, the only certain way for the KPSC to incent CLECs to engage in broad-based competition in BellSouth's local markets is to allow BellSouth's entry into the interLATA long distance market. Now that BOCs have gained interLATA entry in their territory, the KPSC need only look at their experience to conclude that BellSouth's entry into the long distance market in Kentucky will likely accelerate the pace of competition in BellSouth's local exchange markets.

Q. WHAT HAPPENED TO LOCAL COMPETITION WHEN VERIZON AND SBC ENTERED THE INTERLATA MARKETS IN NEW YORK AND TEXAS, RESPECTIVELY?

⁷ Joint Application by SBC Communications, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Report and Order (Released January 22, 2001) ("SWBT Order-KS/OK").

1

2 A. The entry of Verizon into the New York long distance market and SBC into the
3 Texas long distance market prompted AT&T, WorldCom and Sprint to offer
4 new local exchange service plans to attempt to take customers from those
5 BOCs. Published reports, including statistics from the FCC's public files,
6 reflect that Verizon lost 1.3 million customers to competition in the year after
7 its December 1999 entry into the New York long distance market.

8

9 In Texas, where SBC filed its initial 271 application in January, 2000 and
10 ultimately entered the interLATA market in July 2000, CLECs greatly
11 increased their presence in the local marketplace in the period January through
12 August 2000 in anticipation of SBC's entry. For example, SBC lines lost to
13 CLECs during this period increased 47 percent; facilities-based lines lost
14 increased 58 percent; interconnection trunks ordered by CLECs increased 27
15 percent; operational physical collocation increased 99 percent; UNE loop/port
16 combinations increased 283 percent; and orders processed increased 288
17 percent.

18

19 In Kentucky, BellSouth has completed collocation arrangements for CLECs
20 that enable them to serve approximately 62% of BellSouth's combined total
21 residential and business access lines. Therefore, it is reasonable for the KPSC
22 to conclude that BellSouth's local markets will experience similar competitive
23 activity upon BellSouth's entry into the interLATA markets in this state.

24

25 Q. WHAT RELEVANCE DOES INCREASED LOCAL COMPETITION HAVE

1 IN THIS PROCEEDING, OR ANY 271 PROCEEDING, FOR THAT
2 MATTER?

3

4 A. The goal of the Telecommunications Act of 1996 was to increase competitive
5 options to customers in all segments of the telecommunications market.
6 Immediately following the enactment of the Act, only BOCs were unable to
7 offer a full complement of telecommunications services. Congress developed
8 the requirements that a BOC must meet before being allowed to offer in-
9 region, interLATA service. These requirements were determined as necessary
10 to allow companies to compete in the local service market.

11

12 As discussed above, the significant increase in the level of local competition
13 after Verizon and SBC were allowed entry in the interLATA market provides
14 clear evidence that approval of a BOC's 271 application fosters competition in
15 the relevant telecommunications markets and therefore, benefits the
16 consumers, the providers and the overall economy.

17

18 **PART V: COMPLIANCE WITH THE COMPETITIVE CHECKLIST**

19

20 Q. SECTION 271(c)(2)(B) OF THE ACT REFERS TO A "COMPETITIVE
21 CHECKLIST." WHAT IS THE COMPETITIVE CHECKLIST?

22

23 A. The competitive checklist is a list of fourteen requirements (often called
24 "points") related to "access or interconnection provided or generally offered"
25 to other telecommunications carriers with which a BOC must comply in order

1 to meet the requirements of Section 271(c)(2)(B). The checklist identifies the
2 necessary functions of interconnection, access to UNEs and resale of
3 telecommunications services that Congress determined should be made
4 available to fully open the local exchange market to competition. The fourteen
5 requirements address the following:

- 6 (1) Interconnection
- 7 (2) Nondiscriminatory Access to Network Elements
- 8 (3) Nondiscriminatory Access to Poles, Ducts, Conduits and Rights of
9 Way
- 10 (4) Unbundled Local Loops
- 11 (5) Unbundled Local Transport
- 12 (6) Unbundled Local Switching
- 13 (7) Nondiscriminatory Access to:
 - 14 I. E911/911 services
 - 15 II. Directory Assistance
 - 16 III. Operator Call Completion Services
- 17 (8) White Page Directory Listings
- 18 (9) Nondiscriminatory Access to Telephone Numbers
- 19 (10) Nondiscriminatory Access to Databases and Signaling
- 20 (11) Number Portability
- 21 (12) Local Dialing Parity
- 22 (13) Reciprocal Compensation Arrangements
- 23 (14) Resale

24
25

1 Q. WHAT ARE BELLSOUTH'S GENERAL PRICING POLICIES FOR
2 INTERCONNECTION, UNES, TRANSPORT AND TERMINATION?

3

4 A. It is BellSouth's policy to adhere to the pricing rules set forth in the Act and in
5 the FCC's pricing rules. Section 252(d)(1) of the Act states that
6 interconnection and network element charges must be just and reasonable.
7 Such just and reasonable charges shall be based on the cost (determined
8 without reference to a rate of return or other rate-based proceeding) of
9 providing the interconnection or network element (whichever is applicable).
10 The prices must be nondiscriminatory, and may include a reasonable profit.
11 Section 252(d)(2)(A) of the Act requires that charges for transport and
12 termination of traffic shall be mutual and reciprocal and be based on a
13 reasonable approximation of the additional costs of terminating such calls. For
14 all checklist items to which Section 252(d) is applicable, BellSouth provides
15 prices that meet the criteria of Section 252(d) of the Act. BellSouth also
16 complies with FCC Rule 51.505 that establishes the FCC's pricing standard.
17 As BellSouth has explained in the testimony filed in Administrative Case 382,
18 BellSouth's cost studies are performed pursuant to the methodology that is
19 compliant with the FCC's rules.

20

21 Q. WHAT PRICES WILL BELLSOUTH CHARGE FOR
22 INTERCONNECTION, UNEs AND RESALE?

23

24 A. The prices that CLECs will be charged for interconnection and UNEs are
25 contained in Attachment A to BellSouth's SGAT. (*See* Exhibit CKC-5). The

1 prices for interconnection and UNEs are based on total element long run
2 incremental cost (“TELRIC”) methodology and thus are consistent with
3 Section 252(d) of the Act and the FCC’s pricing requirements. As I mentioned
4 earlier in my testimony, the methodology used in BellSouth’s cost studies is
5 compliant with the FCC’s pricing rules. The prices contained in Attachment A
6 of the SGAT are the same as those proposed by BellSouth to the Commission
7 in Administrative Case 382. The prices included in Attachment A of
8 BellSouth’s SGAT will be modified to conform to the final prices that will be
9 established by the Commission in that case.

10

11 Regarding resale, the KPSC, in its Order dated February 6, 1997 in the AT&T
12 Arbitration Case No. 96-482, established a residential and business discount of
13 16.79% and 15.54% respectively, applicable to resold services. Resale
14 discounts are contained in Attachment 1 to BellSouth’s resale and
15 interconnection agreements (*See* Exhibit CKC-3) and in Attachment H of
16 BellSouth’s SGAT. (*See* exhibit CKC-5).

17

18 Q. WILL BELLSOUTH PROVIDE THE COMMISSION WITH
19 PERFORMANCE DATA THAT WILL DEMONSTRATE THAT IT IS
20 PROVIDING CLECs ACCESS TO UNES AND INTERCONNECTION ON
21 A NONDISCRIMINATORY BASIS?

22

23 A. Yes. In the testimony of Mr. Varner, BellSouth submits a proposed set of
24 service quality measurements that BellSouth will ask this Commission to
25 approve and a voluntary performance penalty plan that BellSouth will ask the

1 KPSC to adopt and rely upon for purposes of its 271 recommendation. In
2 addition, BellSouth's supplemental Data Filing will show that BellSouth
3 provides CLECs with nondiscriminatory performance and is sufficient for the
4 KPSC to find that BellSouth is in compliance with the requirements of the Act,
5 and the Rules of the FCC and this Commission.

6

7 Q. DOES THE ACT ALLOW BELLSOUTH TO DEMONSTRATE
8 COMPLIANCE WITH THE FOURTEEN-POINT CHECKLIST THROUGH
9 ITS AGREEMENTS AND/OR ITS SGAT?

10

11 A. Yes. BellSouth may demonstrate compliance with the checklist through
12 agreements approved by the KPSC or through an SGAT approved by the
13 KPSC.

14

15 BellSouth can show checklist compliance through a single interconnection
16 agreement with a new entrant that offers facilities-based local exchange service
17 to both residential and business customers. BellSouth also can combine
18 multiple agreements, which collectively cover the 14-point checklist. In
19 addition, the FCC's interpretation of Section 271(d)(3) provides that a
20 combination of agreements in conjunction with the SGAT can be used to meet
21 the checklist requirements.

22

23 Q. HOW IS THE REMAINDER OF THIS PART OF YOUR TESTIMONY
24 ORGANIZED?

25

1 A. This part of my testimony will discuss and demonstrate the requirements for
2 each checklist item, how BellSouth has met each of the individual 14-point
3 checklist items, and how BellSouth has addressed the issues identified by the
4 FCC in its LAII Order. Additional demonstration of compliance and analysis
5 regarding the ordering, provisioning and billing of checklist items are included
6 in the testimony of the other BellSouth witnesses.

7

8 **CHECKLIST ITEM NO. 1: INTERCONNECTION**

9

10 Q. PLEASE DESCRIBE INTERCONNECTION AS COVERED BY THIS
11 CHECKLIST ITEM.

12

13 A. In accordance with Sections 251(c)(2) and 252(d)(1) of the Act,
14 interconnection allows for the exchange of local traffic between BellSouth and
15 a CLEC over trunks terminated at specified interconnection points.

16

17 Q. WHAT ARE THE REQUIREMENTS OF SECTIONS 251(c)(2) AND
18 252(d)(1) OF THE ACT REGARDING INTERCONNECTION?

19

20 A. Section 251(c)(2) of the Act outlines the obligations of incumbent local
21 exchange companies (“ILECs”) regarding interconnection. Specifically, an
22 ILEC such as BellSouth has the duty to provide interconnection of requesting
23 telecommunications carriers’ facilities and equipment with its network for the
24 purposes of transmission and routing of telephone exchange service and
25 exchange access. This interconnection must be provided at any technically

1 feasible point and must be at least equal in quality to that provided by the ILEC
2 to any other party. Section 252(d)(1) of the Act specifies the pricing standards
3 for such interconnection.

4
5 Q. WHAT ARE THE FCC'S RULES AND REQUIREMENTS REGARDING
6 INTERCONNECTION?

7
8 A. FCC Rule 51.305 requires that an ILEC must provide, for the facilities and
9 equipment of any requesting telecommunications carrier, interconnection with
10 the ILEC's network. This interconnection is for the transmission and routing
11 of telephone exchange service and exchange access service at any technically
12 feasible point within the ILEC's network. The points of interconnection within
13 the ILEC's network will include, at a minimum, the line-side of a local switch,
14 the trunk-side of a local switch, the trunk interconnection points for a tandem
15 switch, central office cross-connect points, out-of-band signaling transfer
16 points and access to call-related databases, and the points of access to
17 unbundled network elements. The FCC's order approving Bell Atlantic's 271
18 application for New York confirmed that technically feasible methods of
19 interconnection include ILEC provision of interconnection trunking, physical
20 and virtual collocation and meet point arrangements. (¶ 66).

21
22 In its SWBT Order-TX⁸ the FCC stated that,

23
24 ⁸ *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern*
25 *Bell Communication Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of*
the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, CC Docket
No. 00-65, Memorandum Opinion and Order, Released June 30, 2000) ("SWBT Order-TX").

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[s]ection 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection “at any technically feasible point within the carrier’s network.” Second, an incumbent LEC must provide interconnection that is “at least equal in quality to that provided by the local exchange carrier to itself.” Finally, the incumbent LEC must provide interconnection “on rates, terms, and conditions that are just, reasonable and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252. (¶ 61).

Further, the FCC restated, “[t]o implement the equal-in-quality requirement in section 251, the Commission’s rules require an incumbent LEC to design and operate its interconnection facilities to meet “the same technical criteria and service standards” that are used for the interoffice trunks within the incumbent LEC’s network.” (*Id.* at ¶ 62). The Commission also concluded that “the requirement to provide interconnection on terms and conditions that are ‘just, reasonable, and nondiscriminatory’ means that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable function to its own retail operations.” (*Id.* at ¶ 63). In the SWBT-KS/OK Order, the FCC concluded that “SWBT provides interconnection at all technically feasible points, including a single point of interconnection, and therefore demonstrates compliance with the checklist item.” (¶ 232).

Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING BELL SOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

1

2 A. In its LAII Order, the FCC found that BellSouth failed to make an adequate
3 showing that its collocation offering satisfies the requirements of Sections 271
4 and 251 of the Act stating “[s]pecifically, we find that BellSouth’s SGAT fails
5 to provide new entrants with sufficiently definite terms and conditions for
6 collocation.” (§ 66). Further, the FCC concluded that because BellSouth fails
7 to include specific provisions regarding the terms and conditions for certain
8 aspects of collocation in a legally binding document, BellSouth cannot
9 demonstrate it provides interconnection on rates, terms, and conditions that are
10 just, reasonable, and nondiscriminatory. (*Id.*).

11

12 Q. HAS BELLSOUTH ADDRESSED THE FCC’S CONCERNS?

13

14 A. Yes. The terms and conditions for BellSouth’s collocation offering, including
15 installation intervals, are defined clearly and in conformance with the decisions
16 of the FCC. Through BellSouth’s interconnection agreements, as well as
17 through its SGAT and FCC and State Access tariffs, CLECs can obtain
18 access to BellSouth’s physical and/or virtual collocation offerings at legally
19 binding terms and conditions that are just, reasonable and nondiscriminatory.
20 The testimony of BellSouth witness Keith Milner, along with the affidavit of
21 Wayne Gray attached to Mr. Milner’s testimony, describes BellSouth’s
22 collocation offering in detail. As discussed previously, performance
23 measurements that demonstrate that BellSouth provides interconnection that is
24 equal in quality to the service that BellSouth provides to itself is attached to the
25 testimony of Mr. Varner. BellSouth’s supplemental Data Filing will show that

1 BellSouth provides CLECs with nondiscriminatory performance.

2

3 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
4 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

5

6 A. BellSouth's interconnection agreements, as well as its SGAT, provide for
7 interconnection in compliance with the requirements set forth by the FCC.
8 Exhibit CKC-3, attached to my testimony, provides the KPSC with a reference
9 tool to review selected agreements that demonstrate BellSouth's compliance
10 with this checklist item.

11

12 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
13 CHECKLIST ITEM NO. 1?

14

15 A. BellSouth requests the KPSC find that BellSouth, as demonstrated by
16 BellSouth's filings in this proceeding, is in compliance with checklist item 1.
17 The access BellSouth provides CLECs to points of interconnection is equal in
18 quality to what BellSouth provides itself, and meets the same technical criteria
19 and standards used in BellSouth's network for a comparable arrangement,
20 except where a CLEC requests otherwise. Therefore, the KPSC should find
21 BellSouth in compliance with checklist item 1.

22

23 **CHECKLIST ITEM NO. 2: ACCESS TO NETWORK ELEMENTS**

24

25

1 Q. WHAT NETWORK ELEMENTS IS BELLSOUTH ADDRESSING IN ITS
2 DISCUSSION OF CHECKLIST ITEM NO. 2?

3

4 A. Access to many of the UNEs BellSouth offers are included elsewhere in the
5 14-point checklist and are therefore discussed with the applicable checklist
6 item. As the FCC noted in its LAII Order, for example, checklist item 4
7 addresses local loop transmission, from the central office to the customer's
8 premises, unbundled from local switching or other services; checklist item 5
9 addresses local transport from the trunk side of a wireline local exchange
10 carrier switch unbundled from switching or other services; and checklist item 6
11 addresses local switching unbundled from transport, local loop transmission, or
12 other services. (¶¶184, 201 and 207). Access to OSS is addressed in the
13 testimony of Mr. Pate.

14

15 As noted by the FCC in its SWBT Order-TX, the FCC focused its discussion of
16 this checklist item on "whether SWBT provides access to OSS and to
17 combinations of UNEs in accordance with section 251(c)(3) and our rules." (¶
18 91). The FCC further stated that, "[a]side from OSS, the other UNEs that
19 SWBT must make available under section 251(c)(3) are also listed as separate
20 items on the competitive checklist, and are addressed below in separate
21 sections for each checklist item" (*Id.*).

22

23 Therefore, under checklist item 2, BellSouth will address only OSS and
24 combinations of UNEs.

25

1 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING NON-
2 DISCRIMINATORY ACCESS TO NETWORK ELEMENTS?

3

4 A. Section 251(c)(3) obligates BellSouth to provide non-discriminatory access to
5 network elements on an unbundled basis at any technically feasible point under
6 rates, terms and conditions that are just and reasonable. Requesting carriers are
7 allowed to combine elements in order to provide telecommunications services.
8 Section 252(d)(1) of the Act specifies the pricing standard for unbundled
9 network elements. In essence, rates for network elements are considered just
10 and reasonable when they are based on the cost of providing the element, are
11 nondiscriminatory and may include a reasonable profit.

12

13 Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING
14 THE COMPONENTS OF THIS CHECKLIST ITEM?

15

16 A. In determining whether an ILEC meets this non-discriminatory standard for
17 each OSS function, the FCC utilizes a two-step process. First, the FCC
18 determines “whether the BOC has deployed the necessary systems and
19 personnel to provide sufficient access to each of the necessary OSS functions
20 and whether the BOC is adequately assisting competing carriers to understand
21 how to implement and use all of the OSS functions available to them.” (Bell
22 Atlantic New York Order, at ¶ 87). Next, the FCC evaluates “whether the OSS
23 functions that the BOC has deployed are operationally ready, as a practical
24 matter.” (*Id.*).

25

1 For OSS functions with a retail analogue, “[t]he BOC must provide access that
2 permits competing carriers to perform these functions in ‘substantially the
3 same time and manner’ as the BOC.” (SWBT Order-TX, at ¶ 94). For OSS
4 functions without a retail analogue, “the BOC must offer access ‘sufficient to
5 allow an efficient competitor a meaningful opportunity to compete.’” (*Id.*, at ¶
6 95). A “meaningful opportunity to compete” is assessed by a review of
7 applicable performance standards. (*Id.*)

8
9 For UNE combinations and access to UNEs, the FCC concluded that, “SWBT
10 provides access to UNEs in a manner that allows requesting carriers to
11 combine those elements, and that SWBT provides access to preexisting
12 combinations of network elements.” (SWBT Order-TX, at ¶ 216). The FCC
13 based their conclusion on SWBT’s evidence of actual commercial usage, and
14 also on SWBT’s legal obligation to provide such access. (*Id.*)

15
16 In its SWBT Order-KS/OK, the FCC reaffirmed its position on OSS and UNE
17 combinations as established in the Bell Atlantic New York Order and in the
18 SWBT Order-TX as referenced above.

19
20 In its Verizon Massachusetts Order, the FCC concluded that “[i]n at least one
21 interconnection agreement, Verizon offers ‘any technically feasible method to
22 access unbundled [n]etwork [e]lements.’ Although Verizon has not provided
23 evidence of a standardized offering for noncollocation methods of combining
24 UNEs, this commitment in an interconnection agreement satisfies the

25

1 obligation to make available noncollocation options for competing carriers
2 wanting to combine UNEs.” (¶ 119).

3

4 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
5 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

6

7 A. In its LAII Order, the FCC found that BellSouth did not satisfy the
8 requirements of checklist item 2. The FCC concluded that although BellSouth
9 had made progress in addressing its OSS deficiencies BellSouth did not
10 demonstrate that it is providing nondiscriminatory access to OSS. (¶¶ 91-92).
11 The FCC also found that collocation cannot be the only method for combining
12 UNEs provided to CLECs. (*Id.* at ¶¶ 167-168).

13

14 Q. HAS BELLSOUTH ADDRESSED THE FCC’S CONCERNS?

15

16 A. Yes. Access to OSS is addressed in the testimony of Mr. Pate and Mr.
17 Ainsworth. Later in my testimony, I discuss BellSouth’s provision of UNE
18 combinations.

19

20 Q. WHAT NETWORK ELEMENTS DOES BELLSOUTH OFFER TO CLECs
21 ON AN UNBUNDLED BASIS?

22

23 A. BellSouth provides CLECs access to all required network elements and sub-
24 elements on an unbundled basis, and on standardized terms. Standard offerings
25 include access to local loops and sub-loops, network interface devices

1 (“NIDs”), switching capability, interoffice transmission facilities, signaling
2 networks and call-related databases, access to OSS functions, high-capacity
3 loops, and dark fiber. As will be discussed under checklist item 7, OS/DA is
4 no longer required to be provided on an unbundled basis. Details concerning
5 each of these offerings are provided in either the testimony of Mr. Milner or
6 Mr. Pate. BellSouth also provides Digital Subscriber Line (“DSL”) capable
7 loops, line-conditioning and line-sharing, and BellSouth facilitates line-
8 splitting pursuant to the FCC’s Line-Sharing Reconsideration Order.⁹ The
9 testimonies of Mr. Milner, Mr. Jerry Latham, and Mr. Thomas Williams
10 provide more details regarding these offerings.

11

12 Q. DOES BELLSOUTH HAVE A LEGAL OBLIGATION TO PROVIDE
13 CLECs WITH ACCESS TO UNES SUCH THAT CLECs MAY COMBINE
14 UNES?

15

16 A. Yes. The methods used and the terms governing the provision of UNES for
17 combining by CLECs are contained in BellSouth’s interconnection agreements,
18 as well as in the SGAT. There is no difference between BellSouth’s
19 provisioning of UNES, or associated methods and procedures, to a CLEC for
20 use with the CLEC’s own facilities versus BellSouth’s provision of UNES that
21 the CLEC may combine. BellSouth does not determine how a CLEC will use
22 the UNES that BellSouth delivers to the CLEC.

23

24

25 ⁹ *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on Remand*, CC Docket No. 98-147 (Released January 19, 2001) (“Line-Sharing Reconsideration Order”).

1 In other words, whether a CLEC uses UNEs in isolation or combines them,
2 access to the UNEs will be provided in the same way. If a CLEC desires
3 additional facilities or services to facilitate its ability to combine UNEs, it may
4 make a request through the Bona Fide Request (“BFR”) process. The BFR
5 process will be discussed in greater detail later in my testimony.

6

7 Q. PLEASE DESCRIBE THE MEANS BY WHICH A CLEC MAY COMBINE
8 UNEs.

9

10 A. Pursuant to the Act, FCC Rules and KPSC Orders, BellSouth provides CLECs
11 with access to UNEs such that a CLEC may combine the UNEs. In order to
12 combine UNEs, the CLEC may choose virtual or physical collocation or an
13 assembly point arrangement. BellSouth will extend UNEs to a CLEC’s virtual
14 or physical collocation arrangement and will terminate those UNEs in such a
15 way as to allow the CLEC to provide cross-connections or other required
16 wiring within the CLEC’s collocation arrangement in order to effect the
17 combination. In addition, BellSouth offers an assembly point option for
18 CLECs to combine UNEs. Mr. Milner discusses in greater detail in his
19 testimony the means by which CLECs can combine UNEs.

20

21 Q. DOES BELLSOUTH OFFER CURRENTLY COMBINED NETWORK
22 ELEMENTS TO CLECs AT COST-BASED RATES?

23

24 A. Yes. BellSouth provides to CLECs, at cost-based rates, network elements that
25 are, in fact, combined in BellSouth’s network to the particular location the

1 CLEC wishes to serve. That is, BellSouth makes combinations of UNEs
2 available to CLECs consistent with BellSouth's obligations under the Act and
3 applicable FCC and KPSC rules.

4
5 Q. PLEASE ADDRESS THE CURRENT STATUS OF THE ILECs' LEGAL
6 OBLIGATION REGARDING COMBINATIONS.

7
8 A. In its UNE Remand Order, the FCC reaffirmed that ILECs presently have no
9 obligation to combine network elements for CLECs when those elements are
10 not currently combined in the ILEC's network. FCC Rules 51.315(c)-(f) that
11 purported to require incumbent LECs to combine UNEs were vacated by the
12 Eighth Circuit, and those rules were neither appealed to nor reinstated by the
13 Supreme Court. On July 18, 2000, the Eighth Circuit reaffirmed its ruling that
14 FCC Rules 51.315(c)-(f) are vacated.

15
16 As the FCC made clear in its UNE Remand Order, Rule 51.315(b) applies to
17 elements that are "in fact" combined, stating that "[t]o the extent an unbundled
18 loop is in fact connected to unbundled dedicated transport, the statute and our
19 rule 51.315(b) require the incumbent to provide such elements to requesting
20 carriers in combined form." (§ 480, emphasis added). The FCC further
21 declined to adopt a definition of "currently combines," that would include all
22 elements "ordinarily combined" in the incumbent's network (declining to
23 "interpret rule 51.315(b) as requiring incumbents to combine unbundled
24 network elements that are 'ordinarily combined' ..."). (*Id.*)

25

1 Q. IN BELLSOUTH'S NETWORK, COULD THERE EXIST A SCENARIO
2 WHEREIN THE LOOP AND THE PORT ARE COMBINED, AND THERE
3 IS DIAL TONE ON THE LINE, BUT THERE IS NO SERVICE BEING
4 PROVIDED TO A PARTICULAR CUSTOMER AT THAT PARTICULAR
5 LOCATION?

6
7 A. Yes. This arrangement is typically referred to as "QuickService." Consider a
8 customer that has been receiving local exchange service from BellSouth, and
9 the customer sells his house and moves. He calls BellSouth to have his service
10 disconnected. Generally, it is BellSouth's policy to leave those facilities
11 connected from the customer's NID to the main distribution frame ("MDF") in
12 the central office. The connection on the MDF between the loop and the
13 switch port is also left in place.¹⁰ Thus, there will be dial tone on the line, but
14 there is no service being provided for which a customer is paying BellSouth. If
15 one were to plug a phone into a jack in that house, and access the line, one
16 would hear a recording advising that the caller can place a 911 emergency call
17 from the line and that they must use another line to order service.
18 Additionally, no incoming calls can be received over this line. Where such
19 facilities are combined in BellSouth's network (that is, where QuickService
20 exists on a disconnected line), BellSouth will provide the combination to a
21 requesting CLEC at cost-based rates.

22

23 _____
24 ¹⁰ The assumption is that the existing facilities will be re-used to provide service to a new customer at
25 that same location. However, in the event that the port or a portion of the loop is needed to fill a service
order at another location where no other facilities are available, the QuickService facility will be taken
apart so that service can be provided at the alternate location. In that case, the loop and the port will no
longer be combined to the original location.

1 Q. CAN A CLEC CONVERT SPECIAL ACCESS FACILITIES TO
2 UNBUNDLED NETWORK ELEMENTS?

3

4 A. Yes. A CLEC must self-certify that it is providing a significant amount of
5 local exchange service over special access facilities in order to convert these
6 special access facilities to a combination of unbundled loops and unbundled
7 transport as determined by the FCC in its UNE Remand Order, and in its
8 Supplemental Clarification Order in CC Docket No. 96-98, Released June 2,
9 2000. BellSouth does not require an audit as a precondition to converting
10 special access to UNEs; however, BellSouth may audit a CLEC's records in
11 order to verify the type of traffic being transmitted over this arrangement,
12 which is now referred to as Enhanced Extended Links ("EELs"). If, based on
13 its audit, BellSouth concludes that a CLEC is not providing a significant
14 amount of local exchange traffic over the facilities, BellSouth may file a
15 complaint with the appropriate regulatory authority.

16

17 Q. WHAT ARE BELLSOUTH'S PRICES FOR COMBINATIONS OF UNES?

18

19 A. Prices for various combinations of UNEs, when such UNEs are in fact
20 currently combined, are set out in Attachment A to BellSouth's SGAT (Exhibit
21 CKC-5). To the extent a CLEC seeks to obtain existing combinations of
22 unbundled network elements that are not listed in their combined form in
23 Attachment A of the SGAT, the CLEC may purchase such UNE combinations
24 at the sum of the stand-alone prices of the elements that make up the
25 combination.

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Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

A. BellSouth’s interconnection agreements, as well as its SGAT, provide for access to network elements in compliance with the requirements set forth by the FCC. Exhibit CKC-3 provides a representative sample of the interconnection agreements that BellSouth has entered into with CLECs in Kentucky. In addition, BellSouth complies with the requirements of the FCC’s Line-Sharing Order¹¹, in which the FCC set forth requirements for unbundling the high frequency portion of the local loop as a new UNE known as line-sharing. BellSouth is offering and providing line-sharing capability to CLECs.

Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO CHECKLIST ITEM NO. 2?

A. BellSouth requests the KPSC find that BellSouth, as demonstrated by BellSouth’s filings in this proceeding, is in compliance with checklist item 2. BellSouth provides nondiscriminatory access to OSS, as BellSouth’s Kentucky performance data will demonstrate. In addition, BellSouth provides UNE combinations in compliance with the FCC rules and KPSC orders. Therefore, The KPSC should find BellSouth in compliance with checklist item 2.

¹¹ Third Report and Order, CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, Released December 9, 1999, (“Line-Sharing Order”).

1 **CHECKLIST ITEM NO. 3: POLES, DUCTS, CONDUITS, AND RIGHTS-OF-**
2 **WAY**

3

4 Q. WHAT ARE THE REQUIREMENTS OF SECTION 224 OF THE ACT
5 REGARDING THIS CHECKLIST ITEM?

6

7 A. Section 224 of the Act outlines the state and federal jurisdiction over the
8 regulation of access to poles, ducts, conduits and rights-of-way and describes
9 the standard for just and reasonable rates for such access.

10

11 Q. WHAT ARE THE FCC'S RULES AND REQUIREMENTS REGARDING
12 THIS CHECKLIST ITEM?

13

14 A. Under Rule 1.1403, a utility shall provide any carrier with nondiscriminatory
15 access to any pole, duct, conduit, or right-of-way owned or controlled by it.
16 Notwithstanding this obligation, a utility may deny any telecommunications
17 carrier access to its poles, ducts, conduits, or rights-of-way where there is
18 insufficient capacity or for reasons of safety, reliability and generally
19 applicable engineering purposes.

20

21 Q. WHAT DID THE FCC PREVIOUSLY RULE REGARDING BELLSOUTH'S
22 COMPLIANCE WITH THIS CHECKLIST ITEM?

23

24 A. In its LAII Order, the FCC found that, "BellSouth demonstrates that it is
25 providing nondiscriminatory access to its poles, ducts, conduits, and rights-of-

1 way at just and reasonable rates, terms and conditions in accordance with the
2 requirements of Section 224, and thus has satisfied the requirements of
3 checklist item (iii).” (¶ 174).

4

5 Q. WHAT DID THE KPSC ADVISE WITH RESPECT TO THIS ITEM?

6

7 A. In its 1999 Order, the KPSC stated that, “[e]mpirical data necessary to reach a
8 definitive conclusion on this checklist item is not available, due to the scarcity
9 of competitors seeking access; however, the Commission finds that BellSouth
10 appears to have met this item of the Competitive Checklist.” (p. 5).

11

12 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
13 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

14

15 A. BellSouth offers through its interconnection agreements, and through its
16 SGAT, nondiscriminatory access to poles, ducts, conduits and rights-of-way at
17 rates that are just and reasonable. Such access is provided via the Standard
18 License Agreement (*see* Exhibit CKC-5, SGAT Attachment D) which
19 complies with Section 224, as amended by the Act, and conforms to the
20 KPSC’s and the FCC’s requirements. See Exhibit CKC-3 for applicable
21 agreement references.

22

23 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
24 CHECKLIST ITEM NO. 3?

25

1 A. The FCC and KPSC previously found BellSouth to be in compliance with this
2 checklist item. BellSouth's actions and performance are consistent with its
3 previous showing, and nothing material has changed since 1998 that should
4 cause the KPSC to reach a different conclusion than the FCC reached in its
5 1998 LAII Order or that the KPSC reached in 1999. BellSouth provides
6 nondiscriminatory access to poles ducts, and conduits to CLECs at rates, terms
7 and conditions that are the same for Kentucky as those found by the FCC to be
8 compliant in Louisiana. For these reasons, BellSouth requests that the KPSC
9 find BellSouth compliant with checklist item 8. Additional details concerning
10 BellSouth's poles, ducts, conduits, and rights-of-way offerings can be found in
11 Mr. Milner's testimony and in the affidavit of Ms. Linda Kinsey, attached
12 thereto.

13

14 **CHECKLIST ITEM NO. 4: LOCAL LOOP**

15

16 Q. DESCRIBE THE TYPES OF LOOPS BELLSOUTH CURRENTLY
17 PROVIDES IN COMPLIANCE WITH CHECKLIST ITEM NO. 4.

18

19 A. BellSouth provides nondiscriminatory access to the following loop types
20 through its SGAT and interconnection agreements: SL1 voice grade analog
21 lines, SL2 voice grade analog lines, 2-wire ISDN digital grade lines, 2-wire
22 Asymmetrical Digital Subscriber Lines ("ADSL"), 2-wire and 4-wire High-bit-
23 rate Digital Subscriber Lines ("HDSL"), 4-wire DS1 digital grade lines; 4-wire
24 56 or 64 Kbps digital grade lines, DS3 and unbundled copper loops.

25

1 BellSouth makes available to CLECs, on an unbundled basis, all of its loops,
2 including those loops served by Integrated Digital Loop Carrier (“IDLC”). Mr.
3 Milner’s testimony provides greater detail regarding loops served by IDLC.

4
5 BellSouth provides CLECs with access to unbundled loops at any technically
6 feasible point with access given to all features, functions and capabilities of the
7 loop; without any restrictions that impair their use; for a CLEC’s exclusive use;
8 and in a manner that enables the CLEC to combine loops with other UNEs.

9
10 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS
11 CHECKLIST ITEM?

12
13 A. Section 271(c)(2)(B)(iv) of the Act requires that BellSouth provide local loop
14 transmission from the central office to the customer’s premises, unbundled
15 from local switching or other services.

16
17 Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING
18 THIS CHECKLIST ITEM?

19
20 A. FCC Rule 51.319 requires an ILEC to provide nondiscriminatory access to the
21 local loop. The local loop network element is defined as a transmission facility
22 between the distribution frame in an ILEC central office and an end user’s
23 premises (for example, a cable pair from the customer’s premises to the main
24 distribution frame of the serving central office).

25

1 In its Bell Atlantic New York Order, the FCC concluded that in order for a
2 BOC to be found in compliance with this checklist item, it must demonstrate a
3 concrete and specific legal obligation to provide unbundled local loops in
4 accordance with Section 271 requirements. (¶ 273).

5
6 Additionally, in its SWBT Order-TX, the FCC determined that “the BOC must
7 provide access to any functionality of the loop requested by a competing
8 carrier unless it is not technically feasible to condition the loop facility to
9 support the particular functionality requested.” (¶ 248). In order to provide
10 such loops, the BOC may have to perform conditioning on the loop for which it
11 can recover its costs. (*Id.*).

12
13 In its SWBT Order-KS/OK, the FCC reaffirmed its requirement that a BOC
14 must demonstrate a concrete and specific legal obligation to provide unbundled
15 local loops in order to meet the requirements of this checklist item.

16 Additionally, the FCC concluded that a BOC must also demonstrate that it is
17 currently providing local loops in the quantities that competitors demand and at
18 acceptable quality levels. (¶ 178).

19
20 Finally, in its Verizon Massachusetts Order, the FCC, in evaluating Verizon’s
21 overall performance in providing unbundled local loops in Massachusetts,
22 examined Verizon’s performance “in the aggregate (i.e., by all loop types) as
23 well as its performance for specific loop types (i.e., by voice grade, xDSL-
24 capable, line-shared and DS-1 types).” (¶ 122). The FCC further concluded
25 that Verizon provides access to loop make-up information in compliance with

1 the UNE Remand Order, and that Verizon also provides nondiscriminatory
2 access to stand alone x Digital Subscriber Line (“xDSL”)-capable loops and
3 high-capacity loops. (¶ 124).

4
5 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
6 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

7
8 A. In its LAII Order, the FCC concluded that BellSouth had not provided
9 sufficient persuasive evidence (in the form of performance data) that it meets
10 the requirements of this checklist item. (¶ 189). Specifically, the FCC desired
11 performance data and explanations of that performance data in sufficient detail
12 to demonstrate that BellSouth met the nondiscrimination standard. (¶ 194).
13 BellSouth’s supplemental Data Filing will show that BellSouth provides
14 CLECs with nondiscriminatory performance.

15
16 Q. DOES BELLSOUTH OFFER ANY ADDITIONAL COMPONENTS OF
17 LOCAL LOOP TRANSMISSION?

18
19 A. Yes. In addition to the unbundled loop, BellSouth provides CLECs with
20 access to unbundled subloop components, as well as loop cross-connects and
21 loop concentration and channelization. Mr. Milner’s testimony provides
22 details concerning how a CLEC gains access to subloop elements. BellSouth
23 also provides CLECs with access to loop make-up information as required by
24 the FCC in its UNE Remand Order. In that order, the FCC clarified that “...an
25 incumbent LEC must provide the requesting carrier with nondiscriminatory

1 access to the same detailed information about the loop that is available to the
2 incumbent, so that the requesting carrier can make an independent judgment
3 about whether the loop is capable of supporting the advanced services
4 equipment the requesting carrier intends to install.” (§ 427).

5

6 Q. DOES BELLSOUTH PROVIDE LOOP MODIFICATION TO CLECs UPON
7 REQUEST?

8

9 A. Yes. BellSouth’s Unbundled Loop Modification (“ULM”) process provides
10 CLECs with the ability to request that BellSouth modify any existing loop to
11 be compatible with the CLEC’s hardware requirements. The testimony of Mr.
12 Latham discusses the ULM process in more detail. As provided by the FCC in
13 its UNE Remand Order, ILECs are allowed to recover the cost of such loop
14 modification. BellSouth’s proposed prices for this function are pending before
15 the KPSC in Administrative Case 382.

16

17 Q. DOES BELLSOUTH PROVIDE CLECs WITH ACCESS TO THE HIGH
18 FREQUENCY PORTION OF THE LOOP?

19

20 A. Yes. Where BellSouth is the voice provider, BellSouth provides CLECs with
21 access to the frequency range above the voice band on a copper loop facility.
22 This function is referred to as “line-sharing”. BellSouth allows CLECs to
23 order splitters in three different increments: (1) full shelf (96 line units); or (2)
24 one fourth of a shelf (24 line units); or an 8-port option, currently under
25 development. The testimony of Mr. Williams provides details of BellSouth’s

1 provisioning of line-sharing. The establishment of permanent prices is pending
2 before the KPSC in Administrative Case 382.

3

4 Q. DOES BELLSOUTH FACILITATE LINE-SPLITTING?

5

6 A. Yes. In the FCC's Line-Sharing Reconsideration Order, the FCC affirmed that
7 ILECs have an obligation to permit competing carriers to engage in line-
8 splitting where the competing carrier purchases the entire loop and provides its
9 own splitter. (¶ 19 emphasis added). When a CLEC is using a UNE-P and
10 wishes to change that to a line-splitting arrangement, a splitter has to be
11 inserted between the loop and the port. This means that the loop and the port
12 have to be disconnected from each other, and both the loop and the port then
13 have to be run into the CLEC's collocation space where the loop can be
14 hooked up to the CLEC's splitter.

15

16 Further, the FCC specifically denied AT&T's request that ILECs be required to
17 continue to provide xDSL services in the event a customer chooses to obtain its
18 voice service from a competing carrier on the same line. (*Id.* at ¶16). In the
19 event a customer terminates its ILEC-provided voice service on a line-shared
20 line, the data CLEC is required to purchase the full stand-alone loop if it
21 wishes to continue providing xDSL service. (¶ 22). This decision supports
22 BellSouth's position that BellSouth is obligated to provide line-sharing to
23 CLECs only where BellSouth is providing the voice service.

24

25 In its SWBT Order-TX, the FCC further clarified that:

- 1 • Line-splitting is defined as a situation where the voice and data service
2 are provided by competing carriers over a single loop, rather than by
3 the incumbent LEC. (¶ 324).
- 4 • ILECs have no obligation to furnish the splitter when the CLEC
5 engages in line-splitting over the UNE-P. (¶ 327).

6

7 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
8 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

9

10 A. BellSouth offers through its interconnection agreements, and through its
11 SGAT, nondiscriminatory access to unbundled local loops and subloops. Such
12 access is provided in compliance with the Act, and conforms to the KPSC's
13 and the FCC's requirements. See Exhibit CKC-3 for interconnection
14 agreement references.

15

16 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
17 CHECKLIST ITEM NO. 4.

18

19 A. BellSouth requests the KPSC find that BellSouth, as demonstrated by
20 BellSouth's filings in this proceeding, is in compliance with checklist item 4.
21 BellSouth makes loop transmission available on an unbundled basis in
22 compliance with FCC Rule 51.319(a) and with Section 271(c)(2)(B)(iv) of the
23 Act. BellSouth provides access to loops at any technically feasible point with
24 access to all features, functions, and capabilities unbundled from other UNEs;
25 without any restrictions that impair use by CLECs; for a CLEC's exclusive

1 use; and in a manner that enables CLECs to combine loops with other UNEs.
2 For these reasons, the KPSC should find BellSouth in compliance with
3 checklist item 4.

4

5 **CHECKLIST ITEM NO. 5: LOCAL TRANSPORT**

6

7 Q. PLEASE DESCRIBE UNBUNDLED LOCAL TRANSPORT AS COVERED
8 BY THIS CHECKLIST ITEM.

9

10 A. There are two types of local transport, namely dedicated and shared (also
11 called “common”) that are covered by this checklist item. Dedicated transport
12 involves transmission facilities dedicated to a specific customer or carrier that
13 provide telecommunications between wire centers owned by the ILEC or
14 requesting telecommunications carriers, or between switches owned by ILECs
15 or requesting telecommunications carriers. Shared transport involves
16 transmission facilities shared by more than one carrier, including the ILEC,
17 between end office switches, between end office switches and tandem
18 switches, and between tandem switches, in the ILEC’s network. BellSouth is
19 not obligated to construct new transport facilities at a CLEC’s request where
20 BellSouth has not deployed facilities for its own use.

21

22 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS
23 CHECKLIST ITEM?

24

25

1 A. Section 271(c)(2)(B)(v) of the Act obligates BellSouth to provide local
2 transport from the trunk side of the wire-line local exchange carrier switch
3 unbundled from switching or other services.

4
5 Q. WHAT DOES THE FCC REQUIRE FOR COMPLIANCE WITH
6 CHECKLIST ITEM NO. 5?

7
8 A. FCC Rule 51.319(d) requires a BOC to offer dedicated and shared transport as
9 defined by the FCC.

10

11 In the Bell Atlantic New York Order, the FCC stated that it requires that
12 “BOCs provide both dedicated and shared transport to requesting carriers.” (¶
13 337). The FCC further stated that Bell Atlantic’s performance data indicated
14 that it was providing transport to CLECs in a nondiscriminatory manner. (¶
15 338).

16

17 In its SWBT Order-TX, the FCC confirmed the obligation to provide dedicated
18 and shared transport and cited SWBT’s performance data as being indicative of
19 compliance with this checklist item. (¶¶ 331-333).

20

21 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
22 BELL SOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

23

24 A. In its LAII Order, the FCC found that BellSouth demonstrated that it provided
25 transport on terms and conditions consistent with the FCC’s directives. (¶ 202).

1 However, the FCC did not approve this checklist item on the grounds that
2 BellSouth failed to submit persuasive evidence, such as performance data,
3 specifically measuring the provisioning of dedicated and shared transport
4 facilities. (¶ 206).

5

6 Q. HAS BELLSOUTH ADDRESSED THE FCC’S CONCERNS?

7

8 A. Yes. BellSouth will provide the necessary performance data to allow the
9 KPSC and the FCC to determine that BellSouth is providing nondiscriminatory
10 access to local transport. Mr. Milner’s testimony addresses the technical
11 details regarding BellSouth’s dedicated and common interoffice transport
12 offerings.

13

14 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
15 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

16

17 A. BellSouth offers through its interconnection agreements and through its SGAT
18 nondiscriminatory access to unbundled local transport. Such access is
19 provided in compliance with the Act and conforms to the KPSC’s and the
20 FCC’s requirements. See Exhibit CKC-3, attached to my testimony, for
21 agreement and SGAT references.

22

23 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
24 CHECKLIST ITEM NO. 5?

25

1 A. BellSouth requests the KPSC find that BellSouth, as demonstrated by
2 BellSouth's filings in this proceeding, is in compliance with checklist item 5.
3 BellSouth offers unbundled local transport on the trunk side of a wire-line local
4 exchange carrier switch unbundled from switching or other services.
5 BellSouth offers CLECs both dedicated and shared transport, as the FCC has
6 defined it. Further, BellSouth offers dedicated and shared transport to carry
7 originating access traffic from, and terminating access traffic to, customers to
8 whom the CLEC is also providing local exchange service. BellSouth also
9 provides CLECs with the data to bill the associated access charges.
10 BellSouth's supplemental Data Filing will show that BellSouth provides
11 CLECs with nondiscriminatory performance and, therefore, is in compliance
12 with the requirements of the Act, and the Rules of the FCC and this
13 Commission. Thus, the KPSC should find BellSouth in compliance with
14 checklist item 5.

15

16 **CHECKLIST ITEM NO. 6: LOCAL SWITCHING**

17

18 Q. PLEASE DESCRIBE LOCAL SWITCHING AS DEFINED BY THIS
19 CHECKLIST ITEM.

20

21 A. Local circuit switching is the network element that provides the functionality
22 required to connect the appropriate originating lines or trunks wired to the
23 MDF, or to the digital cross-connect panel, to a desired terminating line or
24 trunk. The most common local circuit switching capability involves the line
25 termination (port) and the line side switching (dial tone) capabilities in the

1 central office. The functionality of BellSouth's local circuit switching offering
2 includes access to all of the features, functions, and capabilities provided for
3 the particular port type, including features inherent to the switch and the switch
4 software and includes access to vertical features, such as Call Waiting. Local
5 circuit switching also provides access to additional capabilities such as
6 common and dedicated transport, out-of-band signaling, 911, operator services,
7 directory services, and repair service.

8
9 The packet switching capability network element is defined as the basic packet
10 switching function of routing or forwarding packets, frames, cells or other data
11 units based on address or other routing information contained in the packets,
12 frames, cells or other data units, and the functions that are performed by Digital
13 Subscriber Line Access Multiplexers, including but not limited to: (1) the
14 ability to terminate copper customer loops (that include both a low-band voice
15 channel and a high-band data channel, or solely a data channel); (2) the ability
16 to forward the voice channels, if present, to a circuit switch or multiple circuit
17 switches; (3) the ability to extract data units from the data channels on the
18 loops; and (4) the ability to combine data units from multiple loops onto one or
19 more trunks connecting to a packet switch or packet switches.

20

21 Q. WHAT IS REQUIRED BY THE ACT TO BE IN COMPLIANCE WITH
22 CHECKLIST ITEM NO. 6?

23

24 A. Section 271(c)(2)(B)(vi) of the Act requires BellSouth to make available local
25 switching unbundled from local transport, local loop transmission, or other

1 services.

2

3 Q. WHAT ARE THE FCC'S RULES AND REQUIREMENTS REGARDING
4 THIS CHECKLIST ITEM?

5

6 A. FCC Rule 51.319(c) requires unbundling of local and tandem switching
7 capabilities. In the Bell Atlantic New York Order, the FCC concluded that
8 Bell Atlantic demonstrated compliance with checklist item 6, through its
9 provision of: 1) line-side and trunk-side facilities; 2) basic switching functions;
10 3) vertical features; 4) customized routing; 5) shared trunk ports; 6) unbundled
11 tandem switching; 7) usage information for billing exchange access, and 8)
12 usage information for billing for reciprocal compensation. (¶ 346; *see also*
13 SWBT-TX Order, at ¶ 339; *and* SWBT-KS/OK Order, at ¶ 242).

14

15 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
16 BELL SOUTH'S COMPLIANCE WITH THIS CHECKLIST ITEM?

17

18 A. In its LAII Order, the FCC determined that BellSouth must make available all
19 vertical features that the switch is capable of providing, whether or not
20 BellSouth offers a particular feature on a retail basis. (¶¶ 210-211). The FCC
21 also found that BellSouth failed to demonstrate sufficiently that CLECs are
22 able to order customized routing efficiently. As such, the FCC determined that
23 BellSouth did not demonstrate that it is capable of making customized routing
24 practically available in a nondiscriminatory manner. (¶ 223). Another area of
25 concern addressed by the FCC in its LAII Order pertains to whether BellSouth

1 had the necessary billing procedures in place and had demonstrated that
2 CLECs are provided timely and accurate usage information, or a reasonable
3 surrogate for this information, necessary to enable billing for exchange access
4 services. (¶¶ 232-234).

5

6 Q. HAS BELLSOUTH ADDRESSED THE FCC'S CONCERNS?

7

8 A. Yes. As discussed in detail in the testimony of Mr. Milner and Mr. Scollard,
9 BellSouth has resolved the concerns raised by the FCC regarding this checklist
10 item in its LAII Order. In summary, BellSouth provides all vertical features
11 that the switch is capable of providing whether or not BellSouth offers a
12 particular feature on a retail basis. BellSouth also makes available two
13 methods of customized routing, as well as required usage data.

14

15 Q. WHAT DOES BELLSOUTH PROVIDE IN COMPLIANCE WITH THIS
16 CHECKLIST ITEM?

17

18 A. BellSouth provides CLECs with local circuit switching as defined above on an
19 unbundled basis. A CLEC can purchase unbundled switching separately from
20 the other unbundled components needed to complete a local call. BellSouth
21 also offers switch ports and associated usage unbundled from transport, local
22 loop transmission, and other services.

23

24 Further, switch ports are offered with access to all available vertical features
25 that are loaded in the software of the switch. A single vertical feature may

1 include more than one switch capability. Pursuant to the BFR process,
2 BellSouth will work with CLECs to provide features that are loaded in the
3 switch but are not currently activated, as well as those features not currently
4 loaded in the switch. The testimony of Mr. Scollard and Mr. Milner addresses
5 BellSouth's local switching offer in more detail.

6

7 Q. WHAT DOES BELLSOUTH OFFER WITH REGARD TO SWITCH
8 FEATURES NOT CURRENTLY LOADED IN A SWITCH?

9

10 A. Upon request, BellSouth will provide to a CLEC switch features that are not
11 currently loaded in the switch provided that the CLEC is willing to pay the
12 additional costs involved (*e.g.*, additional right-to-use fees, programming costs
13 to the manufacturer and internal costs to adapt BellSouth's systems to accept
14 an order for the new feature). In addition to this issue of cost, there may be
15 feature interaction restrictions of which the CLEC needs to be aware. For
16 these reasons, BellSouth requires the CLEC to submit a BFR so that the parties
17 can explore all related issues.

18

19 Q. DOES BELLSOUTH LIMIT A CLEC'S USE OF LOCAL CIRCUIT
20 SWITCHING TO LOCAL TRAFFIC?

21

22 A. No. Requesting carriers may use local circuit switching to carry any type of
23 traffic that the carrier is authorized to carry. The carrier may provide interstate
24 and intrastate exchange access to customers for whom the carrier provides
25 local service. CLECs purchasing unbundled local circuit switching are entitled

1 to collect the associated switched access charges from interexchange carriers
2 (“IXCs”).

3

4 Q. PLEASE DESCRIBE BELL SOUTH’S PROVISION OF UNBUNDLED
5 PACKET SWITCHING.

6

7 A. BellSouth will provide unbundled packet switching in accordance with the
8 FCC’s rules. In its UNE Remand Order, the FCC expressly declined “to
9 unbundle specific packet switching technologies incumbent LECs may have
10 deployed in their networks.” (¶ 311). Consistent with FCC Rule 51.319(c)(5)
11 regarding packet switching, BellSouth is only required to provide unbundled
12 packet switching when all of the following conditions have been satisfied:

13

- 14 1) The incumbent LEC has deployed digital loop carrier systems,
15 including but not limited to, integrated digital carrier or universal
16 digital loop carrier systems; or has deployed any other system in which
17 fiber optic facilities replace copper facilities in the distribution section
18 (*e.g.*, end office to remote terminal, pedestal or environmentally
19 controlled vault);
- 20 2) There are no spare copper loops capable of supporting the xDSL
21 services the requesting carrier seeks to offer;
- 22 3) The incumbent LEC has not permitted a requesting carrier to deploy a
23 Digital Subscriber Line Access Multiplexer at the remote terminal,
24 pedestal or environmentally controlled vault or other interconnection
25 point, nor has the requesting carrier obtained a virtual collocation

1 arrangement at these subloop interconnection points as defined under
2 Section 51.319(b); and,
3 4) The incumbent LEC has deployed packet switching capability for its
4 own use.

5

6 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
7 OBLIGATION TO COMPLY WITH THIS CHECKLIST ITEM?

8

9 A. BellSouth offers unbundled local circuit switching through its agreements, as
10 well as its SGAT. Exhibit CKC-3 provides interconnection agreement and
11 SGAT references. If any existing interconnection agreements treat vertical
12 features associated with unbundled switch ports as retail services, those
13 agreements will be amended at the request of the CLEC.

14

15 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
16 CHECKLIST ITEM NO. 6?

17

18 A. BellSouth requests the KPSC find that BellSouth, as demonstrated by
19 BellSouth's filings in this proceeding, is in compliance with checklist item 6.
20 BellSouth provides CLECs with local circuit switching on an unbundled
21 network element basis in compliance with the Act, and the FCC's rules and
22 requirements. BellSouth further demonstrates its compliance with this
23 checklist item through its provision of:

24 1) line-side and trunk-side facilities;

25 2) basic switching functions;

- 1 3) vertical features;
- 2 4) customized routing;
- 3 5) shared trunk ports;
- 4 6) unbundled tandem switching;
- 5 7) usage information for billing exchange access; and
- 6 8) usage information for billing reciprocal compensation.

7

8 For these reasons, the KPSC should find BellSouth in compliance with
9 checklist item 6.

10

11 **CHECKLIST ITEM NO. 7: NONDISCRIMINATORY ACCESS TO:**

12 **(I) 911 AND E911 SERVICES;**

13 **(II) DIRECTORY ASSISTANCE SERVICES; AND**

14 **(III) OPERATOR CALL COMPLETION SERVICES**

15

16 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS
17 CHECKLIST ITEM?

18

19 A. Section 271(c)(2)(B)(vii) of the Act requires that a BOC provide
20 nondiscriminatory access to (1) 911 and E911 services; (2) directory assistance
21 services to allow the other carrier's customers to obtain telephone numbers;
22 and (3) operator call completion services.

23

24 Q. WHAT ARE THE FCC'S RULES AND REQUIREMENTS REGARDING
25 THIS CHECKLIST ITEM?

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A. FCC Rule 51.217 applies to the components required under Checklist Item No. 7 and states in relevant part that an ILEC that provides operator services, directory assistance services or directory listings to its customers shall permit competing providers to have nondiscriminatory access to those services or features with no unreasonable dialing delays.

Additionally, in its Local Competition First Report and Order¹², the FCC determined that, for access to 911/E911 services, access to directory assistance, and access to operator call completion services, the ILEC shall provide nondiscriminatory access to switching capability, including customized routing functions. Paragraph 412 of this Order states that the features, functions and capabilities of the local switch include the same basic capabilities that are available to the incumbent LEC’s customers, such as access to 911, operator services and directory assistance. Footnote 914 in the Order further states “we also note that E911 and operator services are further unbundled from local switching.”

In its UNE Remand Order, the FCC determined that ILECs need not provide access to their operator services and directory assistance services on an unbundled basis if the ILEC provides customized routing. The FCC, however, determined that all ILECs must continue to provide nondiscriminatory access

¹² *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 FCC Rcd (1996) (“Local Competition First Report and Order”).

1 to their operator services and directory assistance services pursuant to Section
2 251(b) of the Act. (¶ 441,442).

3

4 In its Bell Atlantic New York Order, the FCC concluded that “[c]ompeting
5 carriers may provide operator services and directory assistance by either
6 reselling the BOC’s services or by using their own personnel and facilities to
7 provide these services.” (¶ 353).

8

9 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
10 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

11

12 A. In its LAII Order, the FCC found that “BellSouth again demonstrates that it is
13 providing nondiscriminatory access to 911/E911 services, and thus satisfies the
14 requirements of checklist item (vii)(I).” (¶ 236).

15

16 Regarding access to directory assistance and operator services, the FCC found
17 that “BellSouth makes a prima facie showing that it has a concrete legal
18 obligation to provide such access...” (¶ 243). The FCC, however, found that
19 BellSouth failed to show “that it provides nondiscriminatory access: (1) to
20 BellSouth-supplied operator services and directory assistance; and (2) to the
21 directory listings in its directory assistance databases.” (*Id.*).

22

23 The FCC concluded that although BellSouth submitted performance data
24 demonstrating nondiscriminatory access, “BellSouth has not separated the
25 performance data between itself and competing carriers. It may be that such

1 disaggregation is either not technically feasible or unnecessary given the
2 method by which competing carriers' customers access BellSouth's operator
3 services and directory assistance." (*Id.* at ¶ 245). Finally, the FCC concluded
4 that "[i]n any future application, if BellSouth seeks to rely on such
5 performance data to demonstrate compliance, it should either disaggregate the
6 data or explain why disaggregation is not feasible or is unnecessary to show
7 nondiscrimination." (*Id.*).

8

9 Q. HOW HAS BELLSOUTH ADDRESSED THE FCC'S CONCERNS?

10

11 A. With respect to nondiscriminatory access to operator services and directory
12 assistance ("OS/DA"), Mr. Milner explains in his testimony why performance
13 data regarding such access does not need to be disaggregated between
14 wholesale and retail. In addition, Mr. Milner explains BellSouth's provision of
15 customized routing and discusses the different branding options available to
16 CLECs.

17

18 Q. HOW DOES BELLSOUTH COMPLY WITH CHECKLIST ITEM NO. 7
19 WITH RESPECT TO OFFERINGS FOR DIRECTORY ASSISTANCE
20 ("DA") SERVICES?

21

22 A. BellSouth's DA service is available on a nondiscriminatory basis to CLECs
23 providing local exchange service to end user customers in exchanges served by
24 BellSouth. CLECs can provide their end users with the same access to
25 BellSouth's DA service using the same 411 dialing pattern as BellSouth

1 provides its retail customers. BellSouth includes CLECs' listings in
2 BellSouth's DA databases. When a CLEC that is reselling BellSouth service
3 desires to establish a local telephone line with the provisioning of DA, the
4 service is provided in the same time and manner as is done for BellSouth retail
5 customers under BellSouth's retail tariffs. BellSouth will make the telephone
6 numbers of subscribers of facilities-based CLECs' available for Intercept
7 Service and will also include those subscribers' line numbers and calling card
8 numbers in BellSouth's Line Information Database ("LIDB"). The testimony
9 of Mr. Milner and the Affidavit of Mr. Doug Coutee, attached to Mr. Milner's
10 testimony, discuss BellSouth's directory assistance offering in more detail and
11 demonstrate BellSouth's compliance with this checklist item.

12

13 Q. AT WHAT RATES DOES BELLSOUTH PROVIDE ACCESS TO ITS
14 DIRECTORY ASSISTANCE SERVICES?

15

16 BellSouth's Directory Assistance Services rates are provided in BellSouth's
17 General Subscriber Services Tariff ("GSST") and through negotiated
18 Agreements.

19

20 Q. HOW DOES BELLSOUTH COMPLY WITH CHECKLIST ITEM NO. 7
21 WITH RESPECT TO OFFERINGS FOR OPERATOR CALL COMPLETION
22 SERVICES?

23

24 A. BellSouth provides CLECs and their subscribers nondiscriminatory access to
25 operator services pursuant to Section 251(b)(3) of the Act. BellSouth's call

1 processing includes: Call Assistance and Call Completion services; Alternate
2 Billing Services such as third number, calling card, and collect; verification
3 and interruption of a busy line; and operator transfer service. Facilities-based
4 CLECs can obtain access to BellSouth's operator call processing by connecting
5 their point of interface via a trunk group to BellSouth's operator services
6 system. Mr. Milner's testimony and Mr. Coutee's affidavit provide additional
7 detail regarding BellSouth's operator services offering.

8

9 Q. AT WHAT RATES DOES BELLSOUTH PROVIDE ACCESS TO ITS
10 OPERATOR SERVICES?

11

12 A. BellSouth's Operator Services rates are provided in BellSouth's tariffs and
13 through negotiated agreements.

14

15 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
16 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

17

18 A. BellSouth offers through its agreements, and through its SGAT,
19 nondiscriminatory access to its 911 and E911 services, directory assistance
20 services and operator call completion service. Such access is provided in
21 compliance with the Act, and conforms to the KPSC's and the FCC's
22 requirements. See Exhibit CKC-3 for agreement and SGAT references.

23

24 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
25 CHECKLIST ITEM NO. 7?

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A. BellSouth requests the KPSC find that BellSouth, as demonstrated by BellSouth’s filings in this proceeding, is in compliance with checklist item 7. BellSouth provides CLECs with nondiscriminatory access to 911 and E911 services, operator call completion services, and directory assistance services as required in the FCC’s rules and the Act. BellSouth’s Kentucky performance data will demonstrate its compliance with this checklist item. Therefore, BellSouth requests that the KPSC find that BellSouth meets the requirements of checklist item 7.

CHECKLIST ITEM NO. 8: WHITE PAGES DIRECTORY LISTINGS

Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS CHECKLIST ITEM?

A. Section 271(c)(2)(B)(viii) of the Act requires that a BOC provide or generally offer to other telecommunications carriers access or interconnection to, “[w]hite pages directory listings for customers of the other carrier’s telephone exchange service.”

Section 222(f)(3)(A) and (B) of the Act defines subscriber list information as any information—“(A) identifying the listed names of subscribers of a carrier and such subscribers’ telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combinations of such listed names,

1 numbers, addresses, or classifications; and (B) that the carrier or an affiliate
2 has published, caused to be published, or accepted for publication in any
3 directory format.”

4
5 Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING
6 THIS CHECKLIST ITEM?

7
8 A. In the Bell Atlantic New York Order, the FCC concluded that in order to
9 satisfy the requirements of this checklist item, a BOC must demonstrate that it
10 is providing for customers of competitive LECs, white pages directory listings
11 that are nondiscriminatory in appearance and integration. Additionally, these
12 listings must have the same accuracy and reliability that the BOC provides for
13 its own customers. (¶ 360; *see also* SWBT Order-TX, ¶ 354; *and* SWBT
14 Order-KS/OK, ¶ 246).

15
16 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
17 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

18
19 A. In its LAII Order, the FCC found that BellSouth had demonstrated that it
20 provides white pages directory listings for customers of competitive LECs’
21 telephone exchange service, and for that reason satisfied the requirements of
22 checklist item 8. (¶ 253). The FCC further concluded that BellSouth’s SGAT
23 and agreements provide a concrete and legal obligation to provide white page
24 listings to competitors’ customers. (¶ 254). Finally, the FCC found that for a
25 BOC to be in compliance with this checklist item, the BOC must provide white

1 pages directory listings for a competing carrier's customers with the same
2 accuracy and reliability that it provides for its own customers," and that
3 BellSouth has submitted sufficient evidence to demonstrate that it is satisfying
4 this requirement." (¶ 257).

5

6 Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

7

8 A. In its 1999 Order, the KPSC stated that, "[t]he absence of any difference in the
9 way BellSouth handles CLEC customer listings indicates that reliability and
10 accuracy are nondiscriminatory. This checklist item has been met." (p. 6).

11 There have been no material changes to the method of providing white pages
12 listings since the KPSC's 1999 order.

13

14 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
15 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

16

17 A. BellSouth offers through its agreements, as well as its SGAT, white pages
18 listings (subscriber name, address, and telephone number) for customers of
19 CLECs. See Exhibit CKC-3 for agreement and SGAT references.

20

21 Q. HOW DOES BELLSOUTH PRICE WHITE PAGES LISTINGS?

22

23 A. As evidenced by BellSouth's agreements and SGAT, BellSouth provides in the
24 White Pages, free of charge, the primary listing information, in standard
25 format, for customers of resellers or facilities-based carriers. Additional and

1 optional listings are available at rates set out in BellSouth's GSST. If these
2 services are being resold, the state-established wholesale discount applies.
3 BellSouth also includes and maintains CLEC subscriber listings in BellSouth's
4 directory assistance database free of charge. The testimony of Mr. Milner, and
5 the affidavit of Mr. Rook Baretto, attached to Mr. Milner's testimony, discuss
6 BellSouth's white pages listings offering in more detail.

7

8 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
9 CHECKLIST ITEM NO. 8?

10

11 A. The FCC and KPSC previously found BellSouth to be in compliance with this
12 checklist item. BellSouth's actions and performance are consistent with its
13 previous showing, and nothing material has changed since 1998 that should
14 cause the KPSC to reach a different conclusion than the FCC reached in its
15 1998 LAII Order or that the KPSC reached in 1999. BellSouth offers white
16 pages listings for CLECs subscribers in Kentucky on the same terms and
17 conditions that are the same for Kentucky as those found by the FCC to be
18 compliant in Louisiana. For these reasons, BellSouth requests that the KPSC
19 find BellSouth compliant with checklist item 8.

20

21 **CHECKLIST ITEM NO. 9: NONDISCRIMINATORY ACCESS TO**
22 **TELEPHONE NUMBERS**

23

24 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS
25 CHECKLIST ITEM?

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A. Section 271(c)(2)(B)(ix) of the Act provides that, until the date by which telecommunications numbering administration guidelines, plans or rules are established, ILECs must provide nondiscriminatory access to telephone numbers for assignment to the other carrier’s telephone exchange service customers.

Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING THIS CHECKLIST ITEM?

A. In its Bell Atlantic New York Order, the FCC restated its previous designation of NeuStar, Inc. (“NeuStar”) as the North American Numbering Plan Administrator (“NANPA”) and maintained that a BOC cannot assign telephone numbers to itself or to competitive LECs. Further, the FCC concluded that a BOC must demonstrate that it adheres to these industry numbering administration guidelines, and the FCC’s rules, including accurate reporting of data, to be compliant with this checklist item. (¶ 363; *see also* SWBT-TX, ¶ 360).

Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

A. In its LAII Order, the FCC found that “BellSouth demonstrates that it has provided nondiscriminatory access to telephone numbers for assignment to

1 other carriers' telephone exchange customers, and thus BellSouth has satisfied
2 the requirements of Checklist Item (ix).” (§ 262).

3

4 Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

5

6 A. In its 1999 Order, the KPSC stated that “BellSouth has established procedures
7 to provide nondiscriminatory NPA/NXX code assignments to CLECs. Its
8 procedures conform to the Industry Numbering Council standards. No requests
9 from CLECs for NPA/NXX code assignments have been refused in Kentucky.
10 This checklist item has, accordingly, been met.” (p. 7).

11

12 Q. HAS ANYTHING CHANGED SINCE THE FCC’S AND KPSC’S FINDINGS
13 WERE MADE?

14

15 A. Yes. At the time the FCC and the KPSC found BellSouth to be in compliance
16 with checklist item 9, BellSouth was the code administrator for its region for
17 central office code assignment and Numbering Plan Administration. A
18 complete transition of the NANPA function, with the FCC’s approval, was
19 made to NeuStar on November 17, 1999. BellSouth adheres to industry
20 guidelines and complies with FCC rules adopted pursuant to Section 251(e) of
21 the Act. The testimony of Mr. Milner explains, in more detail, the evolution of
22 the code administrator responsibility and the ultimate transition from BellSouth
23 to Neustar.

24

25

1 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
2 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

3

4 A. BellSouth offers through its interconnection agreements, as well as its SGAT,
5 nondiscriminatory access to telephone numbers. See Exhibit CKC-3 for
6 interconnection agreement and SGAT references.

7

8 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
9 CHECKLIST ITEM NO. 9?

10

11 A. The FCC and KPSC previously found BellSouth to be in compliance with this
12 checklist item. BellSouth's actions and performance are consistent with its
13 previous showing, and nothing material has changed since 1998 that should
14 cause the KPSC to reach a different conclusion than the FCC reached in its
15 1998 LAII Order or that the KPSC reached in 1999. BellSouth adheres to
16 industry guidelines and complies with FCC rules adopted pursuant to Section
17 251(e) of the Act. For these reasons, BellSouth requests that the KPSC find
18 BellSouth compliant with checklist item 9.

19

20 **CHECKLIST ITEM NO. 10: CALL RELATED DATABASES AND**
21 **ASSOCIATED SIGNALING**

22

23 Q. WHAT ARE THE REQUIREMENTS OF THE ACT REGARDING THIS
24 CHECKLIST ITEM?

25

1 A. Section 271(c)(2)(B)(x) provides that an ILEC must offer nondiscriminatory
2 access to databases and associated signaling necessary for call routing and
3 completion. Databases and associated signaling refer to call-related databases
4 and signaling systems that are used for billing and collection or the
5 transmission, or other provision, of a telecommunications service.

6

7 Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING
8 THIS CHECKLIST ITEM?

9

10 A. FCC Rule 51.319(e) requires that an ILEC provide CLECs with
11 nondiscriminatory access to signaling networks and call-related databases.
12 When a requesting carrier purchases unbundled switching, the ILEC must
13 provide access to its signaling network from that switch in the same manner in
14 which the ILEC obtains such access itself. For a carrier that has its own
15 switching facilities, the ILEC will provide access to the ILEC’s signaling
16 network for each of the carrier’s switches in the same manner the ILEC
17 connects one of its own switches. For query and database response, the ILEC
18 will provide access to its call-related databases by means of physical access.

19

20 In its UNE Remand Order, the FCC clarified that the definition of call-related
21 databases “includes, but is not limited to, the calling name (“CNAM”)
22 database, as well as the 911 and E911 databases.” (¶ 403).

23

24 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
25 BELL SOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

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A. In its LAII Order, the FCC found that BellSouth demonstrated that it is providing nondiscriminatory access to databases and associated signaling necessary for call routing and completion and thus satisfies the requirements of checklist item 10. (¶ 267).

Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

A. In its 1999 Order, the KPSC stated that, “BellSouth’s agreements have been approved by this Commission and provide for nondiscriminatory access pursuant to this checklist item. Accordingly, this checklist item has been met.” (p. 7).

Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

A. BellSouth’s agreements, as well as its SGAT, provide for nondiscriminatory access to BellSouth’s signaling networks and call-related databases used for call routing and completion. See Exhibit CKC-3 for interconnection agreements and SGAT references.

Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO CHECKLIST ITEM NO. 10?

1 A. The FCC and KPSC previously found BellSouth to be in compliance with this
2 checklist item. BellSouth's actions and performance are consistent with its
3 previous showing, and nothing material has changed since 1998 that should
4 cause the KPSC to reach a different conclusion than the FCC reached in its
5 1998 LAII Order or that the KPSC reached in 1999. BellSouth provides
6 CLECs with nondiscriminatory access to databases and associated signaling at
7 rates, terms and conditions that are the same in Kentucky as those found to be
8 compliant by the FCC in Louisiana. The testimony of Mr. Milner explains in
9 more detail BellSouth's compliance with this checklist item. For these reasons,
10 BellSouth requests that the KPSC find BellSouth compliant with checklist item
11 10.

12

13 **CHECKLIST ITEM NO. 11: NUMBER PORTABILITY**

14

15 Q. WHAT IS NUMBER PORTABILITY AS COVERED BY THIS CHECKLIST
16 ITEM?

17

18 A. Number portability is a service arrangement that allows end user customers to
19 retain, at the same location (or a nearby location that is served by the same
20 BellSouth central office), their existing telephone numbers when switching
21 from one telecommunications carrier to another facilities-based
22 telecommunications carrier.

23

24 Q. WHAT ARE THE REQUIREMENTS OF THE ACT WITH RESPECT TO
25 CHECKLIST ITEM NO. 11?

1

2 A. Section 271(c)(2)(B)(xi) of the Act requires that BOCs provide interim number
3 portability (“INP”) “[u]ntil the date by which the Commission issues regulations
4 pursuant to Section 251 to require number portability...” and “[a]fter that date,
5 full compliance with such regulations.” Section 251(b)(2) of the Act lists
6 number portability as an obligation of all LECs. As an ILEC, BellSouth has the
7 duty to provide, to the extent technically feasible, number portability according
8 to requirements prescribed by the FCC. The Act requires that number
9 portability be provided without impairing quality, reliability, or convenience for
10 the customer.

11

12 Q. WHAT ARE THE FCC RULES AND REQUIREMENTS WITH REGARD TO
13 NUMBER PORTABILITY?

14

15 A. The FCC issued regulations regarding number portability on July 2, 1996¹³.
16 FCC Rule 52.27 provides for the deployment of transitional measures for
17 number portability. FCC Rule 52.23 provides for the deployment of long-term
18 database methods for number portability by LECs, referred to as Long Term
19 Number Portability (“LNP”). LNP must support network services, features and
20 capabilities existing at the time number portability is implemented. LNP must
21 efficiently use number resources and may not require end users to change their
22 phone numbers or telecommunications carriers to rely on databases or other
23 network facilities or services provided by other telecommunications carriers to

24

25 ¹³ *First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 95-116* (“First Number Portability Order”) Issued July 2, 1996.

1 route calls to the terminating destination. In addition, service quality and
2 network reliability should be maintained when number portability is
3 implemented and when customers switch carriers.

4
5 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
6 BELLSOUTH'S COMPLIANCE WITH THIS CHECKLIST ITEM?

7
8 A. In its LAII Order, the FCC found that BellSouth failed to provide persuasive
9 evidence that it meets this requirement. (¶ 276). The FCC found that more
10 detailed performance data is required to demonstrate that BellSouth coordinates
11 the provisioning of interim number portability with the provisioning of
12 unbundled loops. (¶ 283).

13
14 The FCC also found that "BellSouth is engaging in, and the Louisiana
15 Commission has approved, practices that may not comply with the FCC's
16 pricing rules and competitive neutrality guidelines, such as assessing all the
17 incremental costs of interim number portability on the competitive LEC, and not
18 sharing the terminating access revenue from calls to ported numbers." (LAII
19 Order, at ¶ 289).

20
21 In its LAII Order, the FCC referenced its *Third Number Portability Order*, that
22 instituted rules to allow an ILEC to recover its long-term number portability
23 costs in two federally tariffed charges: 1) a monthly end-user charge to take
24 effect no earlier than February 1, 1999, that lasts no longer than five years, and
25 2) an inter-carrier charge for query-services that ILECs provide other carriers.

1 The FCC found that “BellSouth has recently filed its long-term number
2 portability query tariff, which is the subject of a pending Commission tariff
3 investigation, and any end-user charge it tariffs with the Commission will take
4 effect no earlier than February 1999.” (¶ 294).

5
6 Finally, the FCC concluded that in any future application for in-region
7 interLATA authority under Section 271, BellSouth must demonstrate that it is
8 complying with the FCC’s rules on the pricing of long-term number portability.
9 (LAI Order, at ¶ 294).

10

11 Q. HAS BELLSOUTH ADDRESSED THE FCC’S CONCERNS?

12

13 A. Yes. BellSouth performance data will demonstrate nondiscriminatory
14 provisioning and coordination of LNP, and unbundled loop requests.

15 In accordance with the FCC’s Third Number Portability Order¹⁴, BellSouth has
16 an approved tariff for the end user line charge and the query charge. The
17 testimony of Mr. Milner, and the affidavit of Mr. Dennis Davis, attached to Mr.
18 Milner’s testimony, provide more detail on BellSouth’s compliance with this
19 checklist item.

20

21 Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

22

23

24

25 ¹⁴ *Third Report and Order in CC Docket No. 95-116* (“Third Number Portability Order”), Issued May 12, 1998.

1 A. In its 1999 Order, the KPSC stated that, “BellSouth appears to meet the
2 standard for interim number portability and has complied with Commission
3 Orders and the industry standards in this regard. No intervenor asserts to the
4 contrary. Accordingly, this checklist item has been met.” (p. 8). Since the
5 issuance of the KPSC’s order, BellSouth has converted all its switches in
6 Kentucky to permanent Local Number Portability and continues to abide by all
7 the relevant FCC and industry guidelines with respect to number portability.

8

9 Q. WHAT HAS CHANGED SINCE THE FCC’S PREVIOUS FINDINGS?

10

11 A. The FCC has mandated that BellSouth and all facility-based competitive local
12 exchange carriers (“CLECs”) implement permanent Local Number Portability
13 (LNP) in designated metropolitan statistical areas (MSAs) in the BellSouth
14 region. Implementation was completed in BellSouth’s share of the top 100
15 MSAs by December 31, 1998, including 21 wire centers in Louisville. For
16 areas outside the top 100 MSAs, ILECs must provide LNP within six months
17 of a Bona Fide Request by a CLEC to do so. Pursuant to a Bona Fide Request
18 filed in Kentucky by Community Telephone, BellSouth completed conversion
19 from INP to LNP in 161 additional service areas on September 2, 1999,
20 making Kentucky BellSouth’s first state to become 100 percent LNP capable.
21 Additional details regarding BellSouth’s implementation of LNP can be found
22 in the testimony of Mr. Milner and the affidavit of Mr. Dennis Davis, attached
23 to Mr. Milner’s testimony.

24

25

1 Q. WHAT ARE THE FCC’S REQUIREMENTS REGARDING CONVERSION
2 FROM INP TO LNP?

3

4 A. In its Second Number Portability Order¹⁵ (at ¶ 16) and in Rule 47 CFR
5 52.27(d), the FCC states, “LECs must discontinue using transitional number
6 portability methods in areas where a long-term number portability method has
7 been implemented.” This statement was in response to concerns expressed by
8 GTE that CLECs might want to continue using INP, even after LNP is
9 available (*Id.*, paragraph 15). The FCC made it clear that all
10 telecommunications service providers must convert to LNP, once available.
11 Therefore, BellSouth does not have an option of continuing to provide INP in
12 Kentucky.

13

14 Q. WAS THERE A TRANSITION PERIOD FOR CONVERSION FROM INP
15 TO LNP?

16

17 A. Yes. Through industry committees, specifically the Southeast Region LLC,
18 agreement was reached between BellSouth and participating CLECs that all
19 interim portability arrangements in the original 100 MSAs would be targeted to
20 convert to permanent number portability within 90 days after the end date for
21 LNP in a given MSA. In the process of working with CLECs to convert the
22 original 100 MSAs, plus additional service areas beyond the top 100 MSAs,
23 BellSouth agreed to extend the conversion period to 120 days.

24

25 ¹⁵ Second Memorandum Opinion and Order on Reconsideration in CC Docket 95-116 (“Second
Number Portability Order”), Issued October 20, 1998.

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Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

A. BellSouth’s interconnection agreements and SGAT describe BellSouth’s provisioning of number portability. See Exhibit CKC-3 for interconnection agreement and SGAT references.

Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO CHECKLIST ITEM NO. 11?

A. BellSouth requests the KPSC find that BellSouth, as demonstrated by BellSouth’s filings in this proceeding, is in compliance with checklist item 11. BellSouth provides interim number portability and long-term number portability consistent with the Act and the FCC’s regulations. Additionally, BellSouth has an approved tariff for the end user line charge and the query charges. Therefore, the KPSC should find BellSouth in compliance with checklist item 11.

CHECKLIST ITEM NO. 12: DIALING PARITY

Q. WHAT ARE THE REQUIREMENTS OF THE ACT WITH REGARD TO DIALING PARITY?

1 A. Section 251(b)(3) of the Act addresses the responsibility of the ILEC to
2 provide dialing parity by defining it as “[t]he duty to provide dialing parity to
3 competing providers of telephone exchange service and telephone toll service,
4 and the duty to permit all such providers to have nondiscriminatory access to
5 telephone numbers, operator services, directory assistance, and directory
6 listing, with no unreasonable dialing delays.”

7

8 Q. WHAT ARE THE FCC RULES REGARDING LOCAL DIALING PARITY?

9

10 A. FCC Rule 51.205 requires a LEC to provide local dialing parity to competing
11 providers with no unreasonable dialing delays. Dialing parity shall be
12 provided for all services that require dialing to route a call. Rule 51.207 states
13 that a LEC shall permit telephone exchange service customers within a local
14 calling area to dial the same number of digits to make a local call,
15 notwithstanding the identity of the customer’s or the called party’s
16 telecommunications service provider.

17

18 In its Bell Atlantic New York Order, the FCC concluded, “[c]ustomers of
19 competing carriers must be able to dial the same number of digits the BOC’s
20 customers dial to complete a local telephone call. Moreover, customers of
21 competing carriers must not otherwise suffer inferior quality service, such as
22 unreasonable dialing delays, compared to the BOC’s customers.” (¶ 373; *see*
23 *also* SWBT Order-TX, ¶ 374).

24

25

1 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
2 BELLSOUTH'S COMPLIANCE WITH THIS CHECKLIST ITEM?

3

4 A. In its LAII Order, the FCC found that BellSouth demonstrated that "it provides
5 nondiscriminatory access to such services as are necessary to allow a
6 requesting carrier to implement local dialing parity in accordance with the
7 requirements of Section 251(b)(3), and thus satisfies the requirements of
8 checklist item (xii)." (¶ 296).

9

10 Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

11

12 A. In its 1999 Order, the KPSC stated that, "BellSouth has demonstrated that
13 customers of competing carriers do not have to dial additional digits to
14 complete a local call and that there are no 'unreasonable dialing delays'
15 experienced by such customers. BellSouth also notes it is unaware of any
16 complaints from CLECs that they or their end-users must dial any access codes
17 or additional digits to complete a local call. Accordingly, BellSouth has met
18 this item of the checklist." (pp. 8-9).

19

20 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
21 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

22

23 A. BellSouth's interconnection agreements, as well as through its SGAT provide
24 for local dialing parity. See Exhibit CKC-3 for interconnection agreement and
25 SGAT references. There is no charge for local dialing parity beyond the

1 charges for the facilities and services otherwise used by the CLEC.

2

3 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
4 CHECKLIST ITEM NO. 12?

5

6 A. The FCC and KPSC previously found BellSouth to be in compliance with this
7 checklist item. BellSouth's actions and performance are consistent with its
8 previous showing, and nothing material has changed since 1998 that should
9 cause the KPSC to reach a different conclusion than the FCC reached in its
10 1998 LAII Order or that the KPSC reached in 1999. BellSouth provides
11 dialing parity to CLECs in Kentucky on terms and conditions that are the same
12 for Kentucky as those found to be compliant by the FCC in Louisiana. For
13 these reasons, BellSouth requests that the KPSC find BellSouth compliant with
14 checklist item 12.

15

16 **CHECKLIST ITEM NO. 13: RECIPROCAL COMPENSATION**

17

18 Q. WHAT DOES THE ACT REQUIRE WITH RESPECT TO RECIPROCAL
19 COMPENSATION?

20

21 A. Section 251(b)(5) of the Act requires local exchange carriers to enter into
22 reciprocal compensation arrangements for the transport and termination of
23 telecommunications. Section 252(d)(2) of the Act establishes a standard for
24 just and reasonable prices for reciprocal compensation such that each carrier
25 receives mutual and reciprocal recovery of costs associated with the transport

1 and termination on each carrier's facilities of calls that originate on the
2 network facilities of the other carrier. The rates shall be set on the basis of a
3 reasonable approximation of the additional costs of terminating such calls.
4

5 Q. WHAT ARE THE FCC'S RULES AND REQUIREMENTS REGARDING
6 THIS CHECKLIST ITEM?

7
8 A. Reciprocal Compensation applies to telecommunications traffic, which is
9 defined by the FCC in its April 27, 2001 Order as:¹⁶

10

11 (1) Telecommunications traffic exchanged between a LEC and a
12 telecommunications carrier other than a CMRS provider, except for
13 telecommunications traffic that is interstate or intrastate exchange
14 access, information access, or exchange services for such access
15 (see FCC 01-131, paras. 34, 36, 39, 42-43); or

16 (2) Telecommunications traffic exchanged between a LEC and a
17 CMRS provider that, at the beginning of the call, originates and
18 terminates within the same Major Trading Area, as defined in §
19 24.202(a) of this chapter. [Amended FCC Rule 51.701(b)(1) and
20 (2)].

21

22 Amended FCC Rule 51.701(e) defines a reciprocal compensation arrangement
23 as "one in which each of the two carriers receives compensation from the other

24

25 ¹⁶ *Order on Remand and Report and Order in the matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic*, CC Dockets 96-98 and 99-68, Released April 27, 2001, ("Intercarrier Compensation Order").

1 carrier for the transport and termination on each carrier’s network facilities of
2 telecommunications traffic that originates on the network facilities of the other
3 carrier.”

4
5 In the Bell Atlantic New York Order, the FCC found that Bell Atlantic was in
6 compliance with this checklist item because it (1) has reciprocal compensation
7 arrangements in accordance with section 252(d)(2) in place, and (2) is making
8 all required payments in a timely fashion. (¶ 376).

9
10 Q. HOW HAS THE FCC ADDRESSED THE AFFECT THAT A CARRIER’S
11 POSITION CONCERNING PAYMENT OF RECIPROCAL
12 COMPENSATION ON INTERNET-BOUND TRAFFIC HAS ON ITS
13 COMPLIANCE WITH THIS CHECKLIST REQUIREMENT?

14
15 A. The FCC has been clear that intercarrier compensation for ISP-bound traffic is
16 not relevant to demonstrating compliance with his checklist item. For
17 example, in its Bell Atlantic New York Order, the FCC noted that “[i]nter-
18 carrier compensation for ISP bound traffic, however, is not governed by
19 section 251(b)(5), and therefore, is not a checklist item.” (¶ 377).

20
21 Further, in its SWBT Order-TX, the FCC, in addressing Allegiance’s concerns
22 regarding inter-carrier compensation for Internet Service Provider (“ISP”)-
23 bound traffic, the FCC concluded that “[b]ecause Allegiance does not allege
24 that SWBT fails this checklist item, and also because this issue i[s] before us
25 again due to the court’s remand, we do not address it in the context of a 271

1 application.” (¶ 386).

2

3 Also, in its SWBT Order-KS/OK, the FCC once again confirmed its prior
4 position regarding reciprocal compensation for ISP-bound traffic. The FCC
5 stated that “[u]nder a prior Commission order, ISP-bound traffic is not subject
6 to the reciprocal compensation provisions of section 251(b)(5) and 252(d)(2);
7 therefore, as we stated in our *Bell Atlantic New York Order*, whether a carrier
8 pays such compensation is irrelevant to checklist item 13.” (¶ 251).

9

10 Finally, as determined by the FCC in its Intercarrier Compensation Order,
11 intercarrier compensation for traffic delivered to enhanced service providers
12 (which includes traffic delivered to Internet Service Providers), is not subject
13 to the reciprocal compensation provisions of section 251(b)(5). BellSouth will
14 treat such traffic consistent with the requirements for compensation set forth in
15 the Intercarrier Compensation Order.

16

17 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
18 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

19

20 A. In its LAII Order, the FCC found that BellSouth demonstrated that it (1) has
21 reciprocal compensation arrangements in accordance with Section 252(d)(2) in
22 place, and (2) is making all required payments in a timely fashion. (¶ 299).

23

24 Q. WHAT DID THE KPSC ADVISE RELATIVE TO THIS ITEM?

25

1 A. The KPSC's 1999 order took notice of the FCC Louisiana II decision as
2 mentioned above. It also took notice of the FCC's declaratory ruling on ISP-
3 bound traffic, stating, "[t]he FCC has since entered a declaratory ruling
4 finding that ISP-Bound traffic is 'jurisdictionally mixed,' but 'largely
5 interstate' and that 'parties should be bound by their existing interconnection
6 agreements, as interpreted by state commissions.' Such interpretation has not
7 yet been issued in Kentucky. Accordingly, at present, this checklist item
8 appears to have been met." (p. 10).

9
10 On March 2, 2000 the KPSC issued an order in the ICG Telecom Group, Inc.
11 arbitration case stating "[t]hat ISP-bound traffic should be eligible for
12 reciprocal compensation, pending a final determination by the FCC."¹⁷
13 Nevertheless, FCC 271 decisions as referenced above continue to declare that
14 ISP-bound traffic is irrelevant to the determination of compliance with this
15 checklist item. The KPSC's decision regarding reciprocal compensation
16 payment on ISP-bound traffic does not constitute a material change to this item
17 in light of the FCC's position.

18
19 Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL
20 OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

21
22
23
24 _____
25 ¹⁷ *Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Sections 252(b) of the Telecommunications Act of 1996, Case No. 99-218, Issued March 2, 2000.*

1 A. Reciprocal compensation arrangements are provided for in BellSouth's
2 interconnection agreements as well as through its SGAT. See Exhibit CKC-3
3 for interconnection agreement and SGAT references.

4
5 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
6 CHECKLIST ITEM NO. 13?

7
8 A. The FCC and KPSC previously found BellSouth to be in compliance with this
9 checklist item. BellSouth's actions and performance are consistent with its
10 previous showing, and nothing material has changed since 1998 that should
11 cause the KPSC to reach a different conclusion than the FCC reached in its
12 1998 LAII Order or that the KPSC reached in 1999. BellSouth provides
13 reciprocal compensation arrangements to CLECs in Kentucky at terms and
14 conditions that are the same as those found to be compliant by the FCC in
15 Louisiana. For these reasons, BellSouth requests the KPSC to find BellSouth
16 compliant with checklist item 13.

17
18 **CHECKLIST ITEM NO. 14: RESALE**

19
20 Q. WHAT DOES THE ACT REQUIRE WITH RESPECT TO RESALE?

21
22 A. Section 251(c)(4) of the Act describes the duty of an ILEC to offer
23 telecommunications services for resale at wholesale rates and not to prohibit or
24 impose unreasonable or discriminatory conditions or limitations on such resold
25 services. A State commission, however, can prohibit a CLEC from reselling a

1 service to one category of subscribers that is available at retail to a different
2 category of subscribers. An example is the prohibition against reselling
3 residential basic local exchange service to business customers at the lower
4 residential rate.

5
6 Section 252(d)(3) of the Act describes the pricing standard for resold services.
7 The Act describes an “avoided cost” standard such that wholesale rates are
8 determined on the basis of retail rates excluding that portion of marketing,
9 billing, collection and other costs that will be avoided by the local exchange
10 carrier.

11

12 Q. WHAT ARE THE FCC’S RULES AND REQUIREMENTS REGARDING
13 THIS CHECKLIST ITEM?

14

15 A. In its Bell Atlantic New York Order, the FCC reiterated its conclusions from
16 the Local Competition First Report and Order, stating that “[m]ost
17 significantly, resale restrictions are presumed to be unreasonable unless the
18 LEC ‘proves to the state commission that the restriction is reasonable and non-
19 discriminatory.’” (¶ 379).

20

21 In its SWBT Order-TX, the FCC found SWBT in compliance with this
22 checklist item because it commits to making its retail services, including
23 customer specific arrangements, available to competing carriers at wholesale
24 rates. (¶ 388). Moreover, according to the FCC, SWBT made such services
25 available to CLECs “without unreasonable or discriminatory conditions or

1 limitations,” meaning that SWBT offers CLECs services identical to the
2 services it provides to its retail customers for resale and permits the CLEC to
3 resell those services to the same customer groups in the same manner. (§ 389).

4
5 As provided in its SWBT Order-KS/OK, the FCC addressed commenters’
6 claims that the FCC should allow customers in long-term contracts to switch to
7 competing carriers without termination liabilities. The FCC confirmed, “in the
8 *Bell Atlantic New York Order* and the *SWBT Texas Order*, we determined that
9 although termination liabilities could, in certain circumstances, be
10 unreasonable or anticompetitive, they do not on their face cause a carrier to fail
11 checklist item 14.” (§ 253). Indeed, in its UNE Remand Order, the FCC stated
12 that “any substitution of unbundled network elements for special access would
13 require the requesting carrier to pay any appropriate termination penalties
14 required under volume or term contracts.” (footnote 985).

15

16 Q. WHAT HAS THE FCC PREVIOUSLY RULED REGARDING
17 BELLSOUTH’S COMPLIANCE WITH THIS CHECKLIST ITEM?

18

19 A. In its LAII Order, the FCC concluded that, “but for deficiencies in its OSS
20 systems described above, BellSouth demonstrates that it makes
21 telecommunication services available for resale in accordance with sections
22 251(c)(4) and 252(d)(3). Thus, but for these [OSS] deficiencies, BellSouth
23 satisfies the requirements of checklist item (xiv).” (§ 309). As described under
24 checklist item 2, BellSouth provides nondiscriminatory access to OSS for
25 UNEs, interconnection, and resale.

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Q. WHERE DOES BELLSOUTH DEMONSTRATE ITS LEGAL OBLIGATION TO PROVIDE THIS CHECKLIST ITEM?

A. Through BellSouth's agreements and SGAT, BellSouth offers its tariffed retail telecommunications services to other telecommunications carriers for resale to their end user customers. A CLEC may resell BellSouth's tariffed retail telecommunications services subject to the terms and conditions specifically set forth in approved agreements and in BellSouth's SGAT. See Exhibit CKC-3 for agreement and SGAT references.

Consistent with the KPSC rules¹⁸, the following terms and conditions are contained in BellSouth's agreements and SGAT and apply to the resale of certain services:

1. Promotional Services. The Commission ordered that BellSouth offer all promotions for resale. Short-term promotions of 90 days or less are not subject to the wholesale rate discount. Instead they will be priced at the promotional rate. Promotional offerings greater than 90 days in duration must be offered for resale at the discount rate. BellSouth may not offer consecutive promotions of less than 90 days, nor may BellSouth offer promotions 90 days or less in any anticompetitive manner.

¹⁸ *Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc., and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C., Case No. 96-482, Issued February 6, 1997.*

1 2. Contract Service Arrangements (“CSAs”). The Commission ordered
2 that CSAs shall be made available for resale at the same rates, terms
3 and conditions offered by BellSouth to the same client to whom the
4 CSA is applicable. The Commission ruled that the wholesale discount
5 should not apply to resold CSAs. A CLEC is not precluded; however,
6 from offering the same services included in the CSA to the end user
7 through utilization of the wholesale discount applied to the tariffed
8 rates of the services. BellSouth is also required to submit to the
9 Commission all CSAs entered into after the effective date of this order.
10 CSA information shall remain proprietary.

11 3. Link Up and Lifeline. The Commission found that Link Up and
12 Lifeline services shall be made available for resale but only to
13 customers that meet the criteria as set forth in sections A3 and A4 of
14 BellSouth’s General Subscriber Services Tariff.

15 4. 911/E911 Services. The Commission found that 911/E911 services
16 shall be made available for resale.

17 5. Cross-class Selling. The Commission adopted the restrictions for
18 cross-class selling from the FCC’s Rules Section 51.613(a)(1).

19

20 Q. WHAT WHOLESale DISCOUNT RATE DOES BELLSOUTH APPLY TO
21 ITS RETAIL SERVICES?

22

23 A. In Attachment 1 of its interconnection agreements and in Attachment H of its
24 SGAT, (*see* Exhibit CKC-5), BellSouth offers the KPSC-approved wholesale
25 discount of 16.79% for residential and 15.54% for business services in

1 Kentucky. Discount rates apply to all tariffed recurring and non-recurring and
2 local and intrastate toll retail (telecommunications) offerings except as
3 discussed previously.

4
5 Q. WHAT DOES BELLSOUTH REQUEST OF THE KPSC IN REGARD TO
6 CHECKLIST ITEM NO. 14?

7
8 A. BellSouth requests the KPSC find that BellSouth, as demonstrated by
9 BellSouth's filings in this proceeding, is in compliance with checklist item 14.
10 BellSouth provides CLECs with access to its telecommunication services for
11 resale at wholesale rates and does not impose unreasonable or discriminatory
12 conditions or limitations on the services. BellSouth offers CLECs services
13 identical to the services that BellSouth provides to its own retail customers for
14 resale and permits the CLEC to resell those same services. BellSouth's
15 supplemental Data Filing will show that BellSouth provides CLECs with
16 nondiscriminatory performance. BellSouth follows the resale terms and
17 conditions as ordered by the KPSC. For these reasons, the KPSC should find
18 BellSouth in compliance with checklist item 14.

19

20 **OTHER ISSUES RELATED TO CHECKLIST ITEMS**

21

22 Q. BY WHAT MEANS CAN A CLEC OBTAIN UNES, INTERCONNECTION
23 AND RESALE FROM BELLSOUTH?

24

25

1 A. There are several options available to a CLEC that wishes to interconnect with
2 BellSouth for resale or for access to UNEs. A CLEC may obtain services via
3 BellSouth's SGAT. A CLEC may choose to adopt another CLEC's KPSC
4 approved agreement in its entirety. A CLEC may choose to negotiate specific
5 terms and conditions for certain functions. Finally, BellSouth makes available
6 to CLECs specific provisions of agreements with other telecommunications
7 carriers as required under Section 252(i) of the Act.

8
9 In accordance with the FCC's Rule 51.809, BellSouth, through its Most
10 Favored Nations ("MFN") clause (also known as "pick and choose"), makes
11 available to CLECs any individual interconnection, service, or network
12 element contained in any interconnection agreement it has negotiated or
13 arbitrated with another party under the same rates, terms and conditions
14 contained in that agreement. The CLEC must, however, also adopt any rates,
15 terms, and conditions that are legitimately related to or were negotiated in
16 exchange for or in conjunction with the portion of the agreement being
17 adopted.

18
19 BellSouth is not obligated to provide this "pick and choose" option when it can
20 demonstrate that the costs of providing the interconnection, service or element
21 to a carrier are greater than the costs of providing it to the carrier that originally
22 negotiated the agreement, or when provision of the interconnection, service or
23 element to the requesting carrier is not technically feasible.

24
25

1 Further, BellSouth does not permit a CLEC to adopt an agreement that has less
2 than six months remaining before the agreement is due to expire. BellSouth
3 believes this policy is reasonable given the Act's requirement that a petition for
4 arbitration of unresolved issues must be filed no more than 160 days after a
5 request for negotiation is received. Should a CLEC adopt an agreement with
6 less than six months remaining, there would not be adequate time in which to
7 begin negotiations for a new agreement and to complete the Section 252
8 process before the agreement the CLEC wishes to adopt expires. BellSouth's
9 policy is consistent with FCC Rule 51.809.

10

11 Q. PLEASE ADDRESS THE BFR PROCESS THAT BELLSOUTH PROVIDES
12 IN ADDITION TO ITS AGREEMENTS AND ITS SGAT.

13

14 A. To the extent a competitor desires access to a network element, interconnection
15 option, or to the provisioning of any service or product for which specific
16 contractual terms are not already available, the competitor may submit to
17 BellSouth a written BFR. A BFR should identify specifically the requested
18 service date, technical requirements, space requirements and/or such
19 specifications that clearly define the request so that BellSouth has sufficient
20 information to analyze the request and prepare a response. The request should
21 also identify whether it is made pursuant to the Act or solely pursuant to the
22 needs of the CLEC's business plan. If BellSouth is not obligated under the Act
23 to provide the requested element or service, BellSouth will first evaluate
24 whether it will provide the requested capability. If BellSouth decides to offer
25 the capability, the remainder of the Request Process period is used to identify

1 and communicate the necessary requirements, including an implementation
2 schedule and price.

3

4 The BFR process establishes procedures and timeframes for requests so that
5 each party fully understands the progress of each request. For example, the
6 BFR process requires BellSouth to acknowledge in writing, within two
7 business days, its receipt of the BFR, and further requires BellSouth to identify
8 a single point of contact for that request. In most cases, BellSouth will provide
9 a preliminary analysis of the request within 30 days of its receipt. Where this
10 is not possible, BellSouth and the CLEC will agree upon a mutually acceptable
11 date. As soon as feasible, but not more than 90 days after it is authorized by
12 the CLEC to proceed with development of the BFR quote, BellSouth will
13 provide the requesting CLEC a quote that will include at least a description of
14 the item, its availability, the applicable rates and the installation intervals. The
15 requesting party then has 30 days to notify BellSouth of its acceptance or
16 rejection of the proposal.

17

18 The BFR process is described in Attachment B of BellSouth's SGAT, (*see*
19 Exhibit CKC-5), and in BellSouth's agreements.

20

21 **PART VI: SUMMARY AND CONCLUSION**

22

23 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

24

25

1 A. In this testimony I have described BellSouth's compliance with the
2 requirements of the Act, with the FCC's Rules, with the KPSC's rules and with
3 prior decisions regarding an ILEC's entry into the long distance market.

4
5 The KPSC has been successful in forging aggressive rules for opening the local
6 telecommunications market. Through arbitrating many agreements and
7 opening generic dockets to consider wholesale rates, the KPSC has ensured
8 that BellSouth's local markets have been irreversibly opened. The fact that
9 CLECs now serve over 7 percent of the local access lines in BellSouth's
10 exchanges proves that BellSouth's markets are open to any CLEC that wishes
11 to enter them. BellSouth has satisfied the obligations imposed on it by
12 Congress, the FCC, and the KPSC. BellSouth has negotiated agreements in
13 good faith with its competitors to provide equitable local interconnection and
14 wholesale services. BellSouth also makes its agreements and SGAT available
15 to any competitor who wishes to enter the telecommunications market in
16 Kentucky.

17
18 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

19
20 A. Yes, this concludes my testimony.

21
22 (#262306)

23

24

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